S. HRG. 103-58

HEARING ON THE SEMIANNUAL REPORT OF THE RESOLUTION TRUST CORPORATION—1993

ARING

ORE THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 [FIRREA] REQUIRES THAT THE OVERSIGHT BOARD TESTIFY TWICE A YEAR ON THE FOLLOWING SEVEN ISSUES: NO. 1, PROGRESS MADE IN RESOLVING FAILED THRIFTS. NO. 2, THE ESTIMATED COST TO THE U.S. GOVERNMENT OF OBLIGATIONS ISSUED OR INCURRED BY THE RTC. NO. 3, PROGRESS IN SELLING ASSETS OF FAILED THRIFTS UNDER RTC CONTROL. NO. 4, THE ADMINISTRATIVE COSTS INCURRED BY THE RTC. NO. 5, THE RTC'S ESTIMATED INCOME FROM ASSET SALES. NO. 6, POTENTIAL SOURCES OF ADDITIONAL FUNDS FOR THE RTC. NO. 7, THE ESTIMATED REMAINING EXPOSURE OF THE U.S. GOVERNMENT IN CONNECTION WITH FAILED THRIFTS WHICH THE OVERSIGHT BOARD BELIEVES WILL REQUIRE ASSISTANCE OR LIQUIDATION IN THE FUTURE.

MARCH 17, 1993

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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WEDNESDAY, MARCH 17, 1993

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 10:05 a.m., in room SD–538 of the Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (chairman of the committee) presiding.

OPENING STATEMENT OF SENATOR DONALD W. RIEGLE, JR.

The CHAIRMAN. The committee will come to order.

I want to welcome all those in attendance this morning, very particularly, the Secretary of the Treasury and the RTC Oversight Board. We're pleased to have all of you.

This morning, the committee meets to hear from the Chairman of the Thrift Depositor Protection Oversight Board, from Treasury Secretary Bentsen and the other Board members about the Clinton administration's plans for the Resolution Trust Corporation. Certainly a lot of work has been done to date, some of it, I think, done well.

There are a lot of problems that occurred along the way, as well. This is a very difficult assignment. There are a lot of problems that remain.

I want to say to you, Secretary Bentsen, that I appreciated the statement that you presented to the committee and that you'll be delivering this morning. I appreciated particularly the straightforward way in which you addressed outstanding problems within the Resolution Trust Corporation and how you think they ought to be dealt with.

You lay out in your statement this morning a series of steps that are to be undertaken.

I know you asked Roger Altman to assume the responsibilities there. I think that's a wise choice. Based on that, I have the feeling that a number of the outstanding issues that have been very troubling to this committee and others will be addressed by people that will now be operating under your direction and with your involvement.

It does appear that the RTC has improved its recordkeeping to facilitate outside audits. It also appears that the Affordable Housing Disposition Program has performed well.

But that is still in the face of a number of other very difficult problems that continue to need attention.

We have all heard, in public hearings, in GAO studies, and press reports, and in our own offices, one story after another about the remaining problems in the RTC.

We've heard about the lack of management information systems, about misplacement of assets worth billions of dollars, about questionable goings on in the RTC's legal division, a lot of money being spent on outside legal activity, about felons being hired for positions of financial responsibility, and about other contracting abuses.

So it would be my strong feeling that this is the time to track down those issues and any other outstanding issues and undertake to get them dealt with in a final and conclusive way.

We've also heard about ill-timed and ill-considered restructurings in the past that have cost employees their jobs and created bottlenecks in RTC decisionmaking and operations.

I think it's fair to say that the RTC, over time, has tended to play down the significance of these problems, and that's what organizations tend to do.

But there are outstanding problems, as you acknowledge in your statement today, and you've set a plan in motion to deal with those.

Your funding request today, I think is an appropriate one. This committee, last year, as you may know, did pass the administration's funding request in this committee, the Senate passed it, and the House was unable to do so. And so that issue brings us back around today.

It is significant, and I say this for the benefit of my colleagues, the request that you're making today for $45 billion to finish this job, as you explained it in your statement, that amount of money actually includes $18 billion that was previously provided by the Congress, but which you were unable to use because there was a deadline in the law, and the money had not been spent by that time. So that money, while previously provided by the Congress, was never used.

So within your $45 billion request is that $18 billion previously provided and unused. And so what you are asking for is an increment beyond what we had previously provided of $27 billion.

One can debate whether that is precisely the right figure that is needed to do this job. It's obviously your judgment that it is, but I think it's important to understand that those two component parts of that $45 billion figure, that taken together would be roughly the same figure that the Senate voted for last spring, which was a total of $43 billion, so we're essentially at the same figure. That is where we are at this point.

I want to just finally say, the estimates that we have been given indicate that this funding is not only essential but that if it is not carried out, that losses will continue to accrue at the rate of about $3 million a day.

Every penny of this money which you're requesting is to go to cover the deposits of insured depositors, citizens who put their money in institutions that have failed, or will shortly fail. And so the money is for that purpose and that purpose alone, namely to

carry out the Federal insurance deposit guarantees to citizens across the country.

You point out in your statement, and I'm doing this from memory, that on average, the deposits of citizens that have been redeemed through the use of the deposit insurance of failed S&L's averages about $9,000, I think is your figure.

That is where the money has gone. And of course, we've had many of the same problems, not to the same scale, in the banking system. And we have provided a line of credit there as well to provide the strength to the deposit insurance system, so that citizens making deposits in federally insured institutions will be guaranteed that within the limits of the law, the $100,000, their money will be paid back to them.

So that's where we are. We'll have a number of questions.

Let me yield, now, in the interests of time, to Senator D'Amato. And I would hope in our opening statements, we can all be relatively brief.

Senator D'Amato?

OPENING COMMENTS OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. Mr. Chairman, I'm going to ask that my full statement be placed in the record as if read in its entirety, to save some time.

The CHAIRMAN. Without objection.

Senator D'AMATO. Let me say, Mr. Secretary, I read your prepared statement, and I certainly don't envy your task. And I will support your efforts.

I think the RTC needs reform almost as much as it needs refinancing. I'm hopeful that we can expedite action on the administration's bill in committee and on the Senate floor.

I pledge my best efforts to work closely with the Chairman to sustain the bipartisan effort to bring this unfortunate chapter in our financial history to a close.

I know that you have indicated that Mr. Altman will temporarily take the helm in terms of the management, and I know that he is a skilled negotiator and someone who understands the business side, who can do a lot in even a relatively short period of time, to bring about some of those reforms.

We stand ready to work in a cooperative effort to save the taxpayers as much money as possible in closing this situation as expeditiously and as prudently as possible.

The CHAIRMAN. Thank you, Senator D'Amato.

Senator Campbell?

Senator CAMPBELL. I have no opening statement.

The CHAIRMAN. Very good.

Senator Mack?

OPENING COMMENTS OF SENATOR CONNIE MACK

Senator MACK. Mr. Chairman, I don't have a prepared opening statement. I just would indicate that the area of interest that I have this morning has to do with RTC sale of real estate and how they go about it. The impact on real estate markets, which we've had an opportunity to talk about.

Also I have some concerns that I will want to get into with respect to what I would consider one of the outstanding problems still at RTC, is the way that they have handled the relationship between borrowers of institutions that they have taken control of. And because of that relationship, there have been difficulties where I think that problems have come about where there has been really no recourse for the owner of the property to try to raise their concerns about being mistreated.

A breakdown having been transferred from one group of negotiators to another group of negotiators to another group of negotiators, and really no place for these people to see if another point of view would have been a fairer approach.

So those are the two areas that I would like to pursue this morning, Mr. Chairman.

The CHAIRMAN. Very good.

Senator Kerry?

OPENING STATEMENT OF SENATOR JOHN F. KERRY

Senator KERRY. Thank you very much, Mr. Chairman.

If I can, I'd like to just take a couple of minutes to raise a couple of issues which I know will be of concern today to the committee as a whole.

The S&L bailout has, today, cost us $145 billion. We're being asked now to spend another $45 billion, and as I think you remember, Mr. Chairman, a number of us raised issues in past hearings about pay-as-you-go and other accountability concerns that we have with respect to the RTC process.

For 2 years now, the GAO has broadly described a number of serious problems at the RTC, including contracting and management deficiencies, inadequate information and accounting systems, inadequate oversight, billions in loan servicing, inadequate recoveries on asset sales, and poor accounting and recordkeeping.

The problem remains today, and this is not a problem of Secretary Bentsen's creation, it is one that he has inherited. It's a difficult one. I know that he's anxious to try to deal with it, as are other members of the Board but no one really knows how much these bad practices have cost us at this point in time.

And I'm apprehensive and concerned, and I think all the members of the committee share this concern about the prospect of just laying out another $45 billion without some conviction, some knowledge of what the state of these concerns are at the RTC now.

What really will be put in place to try to deal with some of these, so that we are not simply compounding the prior crisis that we were asked to deal with when we created the RTC and made money available. I think you really have to be deeply concerned about the compounding of expenditure.

The GAO found, at one point, that nearly one-third of all the entries in the RTC's real estate management database was entered incorrectly. Apparently the problem is sufficiently intractable that the RTC junked the computer system and relied for a time on collecting data by hand.

During much of that time, according to the GAO, the RTC literally didn't know what property it held, and assessments of prop-

erty value have been inaccurate and incomplete and sometimes based on incorrect data.

Until recently, we know that many of these properties were sold with representations and warranties where the RTC, by virtue of those representations and warranties, was once again extending the good will of the American taxpayer and the American Government as the backer of those assets that it was selling. So that if something goes wrong, it's not RTC that winds up holding the bag; it is us once again.

So we have a huge liability on top of the liability. Even though we've made sales, we can't be certain they're not going to come back to whack us again.

There are other significant issues about the way the RTC has handled itself. One particularly is the hiring of law firms and accounting firms as private contractors.

Over the last 4 years, the RTC has been the largest purchaser of legal services in the United States. During 1991, it used the services of 1,986 outside law firms. This has cost the American taxpayer some $3 billion, which is more money than we spent on the entire running of the Commerce Department.

I think, according to RTC personnel, there will be another $800 million expended to dispose of the 666,000 and some cases that remain.

So I just raise these issues because I am deeply concerned about the terms under which we will now be called on to expend $45 billion.

I'm personally very reluctant to want to see us just kind of go on with it, as frankly we did, although I voted against it last time because of these concerns. I don't want to see us do that.

I know the Clinton administration clearly is going to share deep concerns about not airing this a little better.

One example of that, a Jack Anderson column came out a few days ago, disclosing the existence of memoranda on on-going fraud investigations by the Inspector General's Office of the RTC.

Apparently, there are some 1,500 complaints and 300 open cases. These involve not only contractors billing the Government for services they didn't perform and fraud in the asset sales, but even embezzlement and money laundering by RTC employment contractors and subcontractors.

After the article appeared, I asked my office to call to see if we could get a hold of what the newspapers had so we could learn a little about this. We were told by the RTC that the Congress has no right to this report, that it falls under executive privilege, and that they were seeking to have a criminal investigation of whoever had leaked it, and therefore, even more so, we couldn't get it.

Well, I again feel—I can't imagine the Clinton administration, I can't imagine, Mr. Secretary, that you would be content to inherit now a process that seeks to close out our capacity to understand to what degree there may be a problem.

I don't think it's in your interest and I don't think it's in our interest, certainly not in the American people's interest.

So I know in your testimony before the House that you want to ferret all of this out. I have confidence that you're going to do that.

I raise this not to create anything other than an appropriate airing of these kinds of things so that all of us know what we're dealing with, and so do you.

You'll have an opportunity to join with us, I guess, in a legitimate effort to try to better understand how we can avoid the kind of ultimate, cynical backlash that will come from an electorate that may learn about more of this later, rather than our dealing with it now. I hope that we can do so in the process.

I apologize for going on a little bit long, but I do think this is an important aspect of our authorizing further funds.

The CHAIRMAN. Thank you, Senator Kerry.

Senator Bennett?

OPENING STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

Mr. Secretary, we welcome you in this group here. Forty-five billion is a lot of money. My reaction, however, as a businessman, is that when you have a bad problem, the worst thing you can do is try to stretch it out over a number of quarters and pretend that the stockholders don't notice.

The best thing you can do is lump it into this quarter, take your lumps, get it done, and get it behind you. So, for that reason, my reaction is, if indeed you can demonstrate that that's what the obligation is by virtue of the Government's pledge to these depositors, we ought to do it, we ought to do it now. We've got to get it behind us and move forward.

So I wanted to get that position fairly clear.

The other issue that I would like to raise, it's not in your testimony, and perhaps this is not a time to discuss it in any detail, but I think we ought to get it on the table to at least think about it, is that looking down the road, and it will happen before we recognize it, before we're prepared for it, the RTC will merge with the FDIC. That's scheduled for 1996, and I recognize around here, we don't think in terms of 1996.

But could I, while I have your attention, just kind of ask you to make a little note about that, and ask what the implications will be long-term, to have this merger occur.

Is the RTC going to be completely abolished and disappear, and absolutely nothing to be merged, or in fact, are we going to see a circumstance in 1996 when the RTC and the FDIC come together, and are there going to be any lingering problems.

So as you deal with the immediate, I hope also you will just keep in the back of your mind, gentlemen, that the residual problems you're going to give to the FDIC in 3 very short years, if we don't get this thing cleaned up properly.

Those are the two comments I wish to make.

The CHAIRMAN. Thank you, Senator Bennett.

Senator Domenici?

OPENING STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you very much, Mr. Chairman.

Mr. Secretary, Chairman Greenspan, and all the others that are here, I'm pleased to be with you today. And Secretary Bentsen, thanks for calling me about this issue.

If you show that this is what's needed in terms of RTC funding and demonstrate that this will take care of this lingering obligation, you can count on this Senator's support. I'll vote for it, I'll cosponsor it, I'll do whatever the Chairman and Ranking Member say.

I think we should acknowledge, however, that it does, in a real sense, add about $11 or $12 billion to the deficit. And in a sense, we're not going to do anything about that except add it.

I don't mean to linger on that issue with you all, but in some sense it will draw a nice analogy for us on the floor with reference to how much we add in this and how much we subtract elsewhere on the domestic side.

Having said that, I'm very hopeful, Mr. Secretary, that at the earliest possible time, we'll have no more RTC. It's an experiment in American Government and governance that we can only hope we never have again.

And I don't believe we'll ever learn from them because we'll have to do something like this if we get in a jam on some of our big guarantees, on our pension guarantees.

But the RTC has been a disaster, not just from the money standpoint. It's so difficult to run a company like this, Mr. Secretary.

I'm very pleased for you that you only have to clean it up, because it has to have been one of the most difficult management jobs in Government's history.

Whatever is done is only pleasing to some and unpleasant to most.

But I want to talk about three things, quickly.

To compliment you, first, with reference to the credit crunch. I'm sure you were part of putting together the President's—and many of you here—the President's ideas and Executive Order to try to get the regulators off the backs of banks where examiners were merely making it difficult, without any real justification for commercial loans to occur.

I can tell you, in my own State, commercial loans in 1992 versus 1988, are half, and the volume is not changing. You can't get economic growth with half of the commercial loans of 1988. We're many years later and we still have half the amount out there being loaned.

Something is just not going to happen on the private sector side.

To the end that I support the President's Executive Order, I join my friend, Senator D'Amato, in saying, to the extent that you propose it, we'll legislate it, so there'll be no question about the President having the authority to do those things.

I don't know where you stand on that legislation, but I would hope that you could support it wholeheartedly and get it passed, so that there will be no question about the Executive Order from the standpoint of the regulators.

We have a couple of situations that just cry out for somebody as level-headed as you to tell somebody to look at it. There is still way too much RTC suing and braggingly talking about it.

It's just sickening. They're telling outside boards of directors, you're going to remain in the lawsuit until you pay because you've got money. RTC lawyers don't care about telling directors if they did something wrong or not. Their crime is having a deep pocket.

The *modus operandi* is that if you've got money, the RTC is going to take it from you.

I have a case, believe it or not, a New Mexico case, 900 prediscovery motions were filed, 900.

I have a situation in New Mexico where the RTC wants to deny a State court's jurisdiction, but says that it's all right for the Federal court to have it, and there's no reason for the difference under normal jurisprudence in our State.

But RTC thinks they'll get a more expensive case from the Federal court, and the citizens will get a better shake from State courts.

I don't know, this late in the game, whether I could ask you to do anything about it, but I would think some of these things, Mr. Secretary, would shock your conscience and your sense of fair play.

And if there's somebody around that reports to you in the remaining 3 or 4 years of wrapping this thing up, if they could just proceed in a more fair and not such an impersonal way with the citizens of the United States, it would be a big credit to you.

I hope you can look at some of those things.

But I'm going to support the RTC funding, you understand that, right up front. It's an obligation. I voted for it last year, I voted for it the year before. We'll just have to get it out of the way.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Domenici.

Senator Bond?

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you, Mr. Chairman.

I want to join in welcoming Secretary Bentsen before this committee in his new position. We also welcome Mr. Altman in his responsibilities, Chairman Greenspan, and all the distinguished people here to tell us about the RTC.

I will not give any of my lengthy speeches on the RTC other than to say that I hope, with a clearcut message about the need for funding, we can get everybody in the buggy and do the job of funding once and for all.

I've only been on this committee a little over 6 years. I started out voting for $15 billion in the FSLIC. Many of my colleagues didn't want to give that amount.

I tried to vote for the full amount of funding in the beginning, while some of my colleagues have insisted upon cutting the puppy dog's tail off an inch at a time.

As a result, we have left a shortfall in funds, which has cost the taxpayers significantly in recent months. And I hope that with the born again enthusiasm of a new day, that perhaps a majority of my colleagues in both houses will say, it is time to provide the money.

We'll continue the oversight but let us not continue to dither away when the RTC cannot do its job when we don't fund it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bond.

Senator Shelby?

OPENING COMMENTS OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Mr. Chairman, I ask that my entire statement be made part of the record.

The CHAIRMAN. Without objection.

Senator SHELBY. I'll be brief.

I do welcome Secretary Bentsen and Chairman Greenspan and the other members, especially my friend, Philip Jackson, who served on this Board and also served on the Federal Reserve Board at one time, from my home State of Alabama. We look forward to your testimony.

The CHAIRMAN. Thank you.

Senator Faircloth?

OPENING COMMENTS OF SENATOR LAUCH FAIRCLOTH

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Thank you, gentlemen. We're honored to have you.

The cost of the RTC bailout is going to ultimately depend on the strength of the real estate market. The strength of the real estate market, in turn, will depend on the strength of the overall economy.

The effect the Clinton economic plan will have on the economy is starting to come in. The Clinton plan represents the largest tax increase in history.

The National Association of Manufacturers calculates the effect of the permanent tax increase in the Clinton plan will swamp the effect of the short-term investment tax credits. Overall, they conclude that the Clinton tax increase plan will cost 1,200,000 jobs.

The Clinton energy tax on gasoline, heating oil and electricity will cost a typical family $500 a year. According to former Carter Energy Administrator Schlesinger, the Clinton energy tax will drive up the cost of production and force business to move offshore.

A little common sense and practical experience is all you need to know that raising the cost of energy will make it more difficult for U.S. factories to compete.

The economy needs a change, a real change; spending cuts, not tax increases.

I look forward to hearing the witnesses discuss the RTC and the bailout, and the things Congress needs to do to get it under control. I would support your efforts in that, and I realize the difficult job you all face, and I'm glad I don't have to deal with it.

The CHAIRMAN. You get to vote for it.

[Laughter.]

Senator FAIRCLOTH. Thank you.

The CHAIRMAN. Senator Murray is presiding presently on the Senate Floor, and therefore cannot be here at this precise moment.

She has an opening statement that I will ask unanimous consent be made part of the record, and also some questions that she'd like answered for the record.

The CHAIRMAN. Secretary Bentsen, it's a great pleasure to have you before this committee. You have many friends around this table here on both sides.

We'd be pleased to hear from you now. We'll make your full statement a part of the record.

STATEMENT OF LLOYD BENTSEN, CHAIRMAN, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, SECRETARY, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY: ALAN GREENSPAN, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, ACTING CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION; ANDREW C. HOVE, JR., MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, ACTING CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION; JONATHAN FIECHTER, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, ACTING DIRECTOR, OFFICE OF THRIFT SUPERVISION; ROBERT C. LARSON, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; PHILIP C. JACKSON, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; ROGER ALTMAN, DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY, INTERIM CEO, RESOLUTION TRUST CORPORATION; AND PETER MONROE, PRESIDENT, RTC, THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Secretary BENTSEN. Thank you, Mr. Chairman.

I'm delighted to be before this committee to talk about the administration's objectives in trying to do this cleanup of the S&L's, and in turn to talk about the amount of money necessary to protect the deposit insurance.

This is my first appearance before this committee as Secretary of the Treasury. I've worked with many of you for years, and in a bipartisan way, to accomplish the objectives that we regard as very important to this country of ours, and I look forward to the continuation of that kind of relationship.

Senator D'Amato, I congratulate you in becoming the Ranking Member of this committee, and will continue to work with you.

With me today, are the Oversight Board Members, we have Alan Greenspan, Chairman of the Federal Reserve. Philip Jackson, Professor at Birmingham Southern College and former Governor of the Federal Reserve Board. Robert Larson, Chairman of the Taubman Real Estate Group. Roger Altman, Deputy Secretary of the Treasury and interim CEO with the RTC. Jonathan Fiechter, the Acting Director of the Office of Thrift Supervision. Andrew Hove, the Acting Chairman of the Federal Deposit Insurance Corporation.

Also accompanying us is Peter Monroe who is President of the Oversight Board. William Roelle, who is the RTC's Senior Vice President and Chairman of the RTC's Executive Committee. And Lamar Kelly, the RTC Senior Vice President for Asset Management and Sales.

They're here to help respond to some of the questions that may be asked.

We're here to begin the process of crafting legislation to fund the Resolution Trust Corporation and to permit it to clean up its portion of the savings and loans.

It's been a bipartisan issue from the start, just as one of President Bush's first proposals to Congress was a plan to deal with the savings and loan crisis, my first appearance before this committee demonstrates this administration's commitment to funding the RTC, and to closing this chapter of our financial history.

Mr. Chairman, let me state, right from the start, that the administration is committed to fulfilling our Government's commitment to savings and loan depositors under the Federal Deposit Insurance Program.

There's been a lot of confusion about this program. I've heard it labeled a bailout. If that's an inference that something is being done for stockholders, that's just wrong, dead wrong.

This is a program for people, for millions of Americans who, over the years, have placed their savings in insured institutions in confidence that the Government is going to honor that insurance pledge. Not a dollar has gone to bail out bankrupt S&L's or pay off their shareholders. The funds are used solely to protect the depositors.

You cited the number, Mr. Chairman; $9,000 is the average of those savings. Wealthy people, highly sophisticated investors generally don't put their money in an S&L. They find some other kind of a financial instrument that they think pays a better return.

We're talking about folks. We're talking about the average American citizen, a man and woman who put their savings there. That's what we're trying to see that we pay off. That's our obligation.

Sure, I know it's a tough vote, voting for $45 billion. I've made those votes before here in this body. I've got the scars to show for it. But I believe that's the responsible vote, and that's what we have to do.

We're talking about the safety of our financial institutions. I think if we fail to meet that obligation, we'll pay a far greater price and deservedly so.

What do you think the attitude will be toward other financial institutions where we have Government insurance, if we don't live up to it this time?

I also know that many of you can't vote to fund the RTC unless dramatic improvements are made in its operations. Let me tell you on the record, as plain as I can tell you, that's what we're going to try to accomplish. These people didn't need this responsibility, but they've taken it on.

In August of 1989, this committee and the Congress responded to the need to defend our financial system by passing FIRREA. That was a bipartisan effort, and for all of its problems, all of its troubles, all of these things that have been cited, overall, it's worked.

On the day FIRREA passed, the thrift industry consisted of over 3,000 institutions, more than 260 of which were in conservatorship. It was losing more than a billion dollars a year. It's return on assets was negative. Its deposit insurance fund was bankrupt.

Let me show you a few charts.

Chart I. 21.8 million depositors, pursuant to FIRREA, 21.8 million depositor accounts have been made whole by the Resolution Trust Corporation. The size of the average account was $9,000.

Let's see chart II. 654 S&L's resolved.

The RTC has closed 654 insolvent savings and loan institutions, which is equal to 89 percent of the total of 737 institutions that have been seized.

Chart III. The next chart shows the RTC has taken possession of about $438 billion of assets. It has sold or collected about $337

billion of that amount at an average return of 92 percent of book value.

Next chart. The next chart shows that under its Affordable Housing Program, the RTC has closed sales of over 13,000 homes to low- and moderate-income homeowners. That's enough to create a small town.

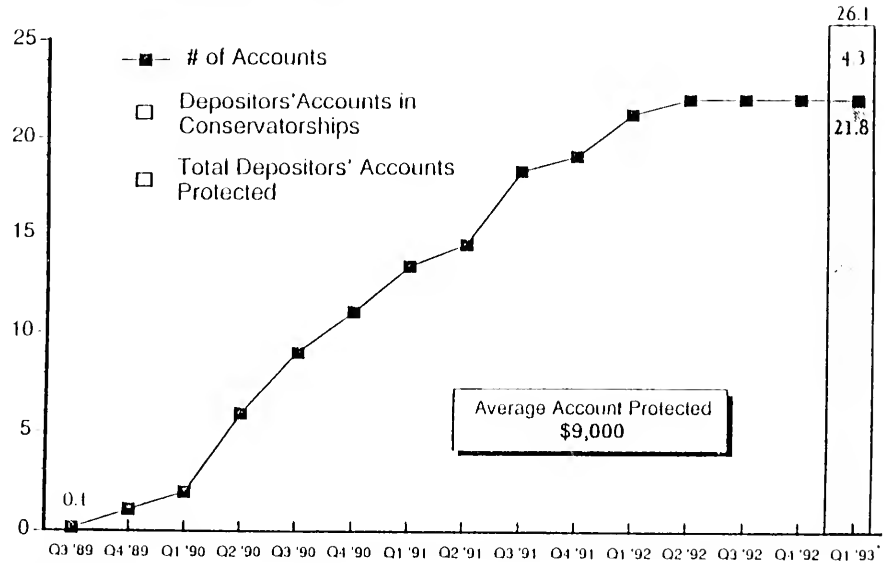
In addition, the RTC has closed sales of 350 multifamily properties with 30,000 units, of which 11,500 have been dedicated for occupancy by lower income and very low-income families.

Now if you look at your handouts, you can see chart V, and it shows that the Department of Justice has sent 685 individuals, including many thrift executives, directors and officers, to jail for crimes against the country and the taxpayer.

CHART I

21.8 Million Depositors Protected
(# Millions)

Inception through March 8, 1993



* Quarter to date.

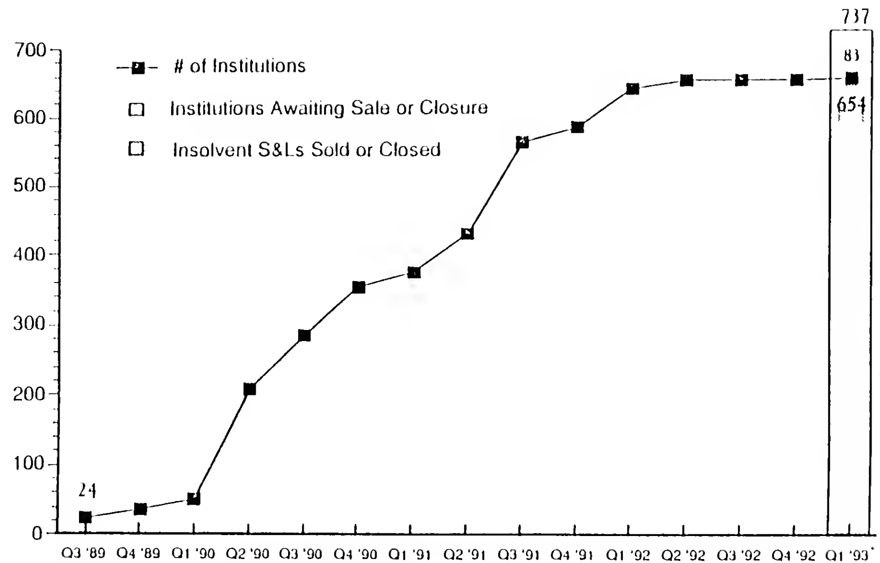
Note: Figures represent cumulative depositors' accounts protected

Source. RTC Office of Corporate Communications; TFR

CHART II

654 S&Ls Resolved

Inception through March 8, 1993



* Quarter to date

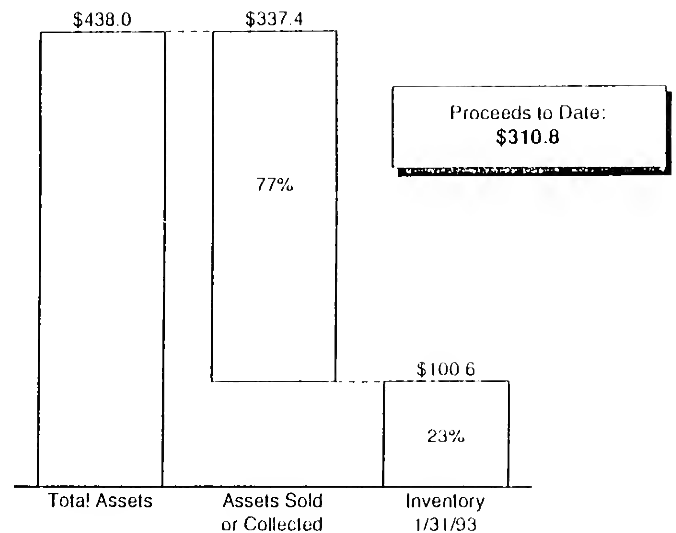
Note: Figures represent cumulative RTC resolutions

Source: RTC Review; OB Analysis

Chart III

Three-Fourths of RTC Assets Are Already Sold
(Book Value – $ Billions)

Inception through January 31, 1993

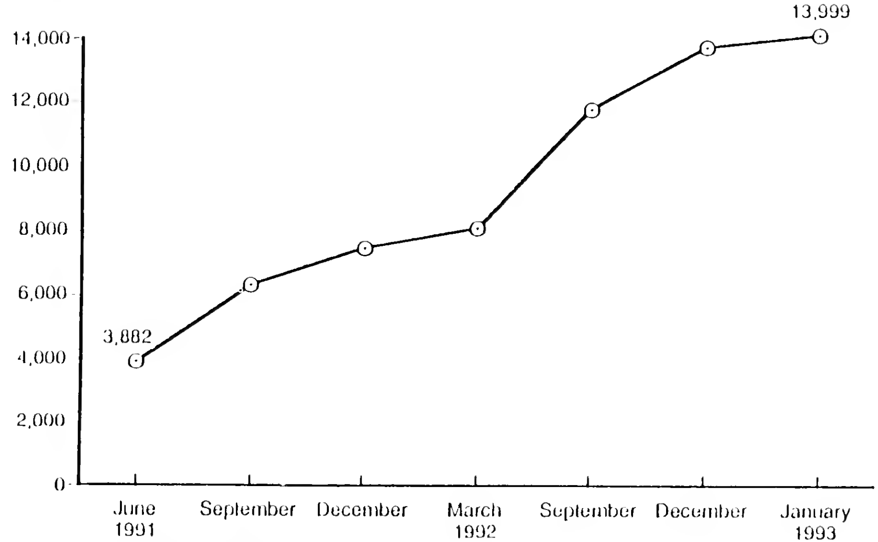


Source. RTC Review

CHART IV

Affordable Housing Has Created Almost 14,000 Homeowners*

Single Family Closed Sales**
June 30, 1991 through January 31, 1993



* Data revised to include Closed Sales only
** Sales of both receivership and conservatorship properties
Source: RTC – AHD Program

Prosecutions, Fines and Recoveries

($ Millions)

"Major" S&L prosecutions (Department of Justice)*:

Defendants Charged	1,358
Convicted	1,062
Awaiting Sentence	184
Suspended Sentence	209
Sentenced to Prison	685
CEO's, Board Chairmen, Presidents, Directors, and other officers	
Charged–	390
Convicted	324
Acquitted	18

Criminal Restitutions**:

	Ordered	Collected
Total†	$490	$34

Civil Recoveries**:

Includes professional liability recoveries, civil money penalties, and administrative adjudications

Total††	$1,017

* October 1, 1988–November 30, 1992 "Major" defined as (a) fraud or loss of $100,000 or more, or (b) defendant was officer, director, or shareholder/owner, or (c) schemes involved multiple borrowers in same institution

** September 30, 1992.

† Includes criminal restitutions ordered and collected by the FSLIC Resolution Fund, BIF, and RTC

†† Includes civil recoveries collected by RTC, FSLIC Resolution Fund, and OTS

CHART VI

Administrative Reforms

- Strengthen internal controls against waste, fraud, and abuse.
- Respond to problems flagged by auditors.
- Prepare Business Plan/Asset Sales Strategy.
- Expand opportunities for minorities and women.
- Improve RTC's Professional Liability Section.
- Improve management information systems.
- Strengthen contracting systems and contractor oversight.
- Appoint a Chief Financial Officer.
- Appoint Oversight Board Audit Committee.

CHART VII

RTC Funding History

August 9, 1989 (FIRREA, PL 101–73)		$50 billion
March 23, 1991 (RTC Funding Act, PL 102–18)		$30 billion
December 12, 1991 (RTC Refinancing, Restructuring... Act, PL 102–233)		$25 billion*
March 26, 1992 (RTC Funding Act of 1992, S2482)	Passed (52–42)	$43 billion (Lift 4/1/92 limit; added $25 billion)
April 1, 1992 (RTC Funding Limitation, HR 4704)	Defeated (125–298)	$18 billion (Lift 4/1/92 limitation)

Total Loss Funds Enacted	$105 0 billion
Loss Funds Expired	(18 3 billion)
Loss Funds (total) Available for RTC Use	$86.7 billion
Loss Funds Used to Date	84.4 billion
Loss Funds Reserve Remaining	2.3 billion

* Up to $25 billion until 4/1/92, by 4/1/92 RTC expended only about $6 7 billion and authority to spend $18 3 billion expired

While the record on court-ordered restitutions from criminals is not good, civil recoveries obtained by the RTC, by the FDIC, and the OTS, now total more than a billion dollars.

While much has been accomplished, obviously a lot remains to be done. The task ahead consists of four parts. One, protecting the depositors. Second, selling assets at the best possible prices. Third, ensuring that the RTC is run efficiently. And four, closing down the RTC in a planned and orderly way, as soon as feasible.

Eighty-three insolvent institutions, with about 4.3 million depositor accounts are now operating under the conservatorship of the RTC.

The RTC is obligated to operate them at a daily loss to the taxpayers, and in competition with the healthy thrifts and banks in their communities until Congress votes funds to pay their depositors and close them.

And as the Acting Director of the Office of Thrift Supervision can tell you, OTS will continue to transfer additional thrifts to the RTC for closure.

The existence of current and additional conservatorships means unnecessary extra costs to the taxpayer, and they have to be stopped as quickly as possible by funding the RTC.

You see, that would not appear so close if you didn't have the limitations the Chairman was talking about on spending these funds. A lot of these would have been closed down and transferred. The losses would have been stopped.

The history of the savings and loan debacle shows that by refusing to provide funds to close insolvent thrifts, it simply means greater losses for the taxpayers.

Protecting the depositors in existing and new conservatorships is only one part of the job remaining to be done.

The second task, and that's managing the sale of the remaining assets, is just as important.

I said earlier that the RTC has achieved an impressive record in its asset sales to date. But the remaining assets of more than $100 billion, together with assets to be received from institutions placed in conservatorship before September 30 this year, consists of assets that are substantially harder to sell, nonperforming mortgages, farms without any cash flow on them. Try to unload those, those of you who have been on bank boards and S&L boards. You understand what you're up against.

Now we can limit the potential loss to the taxpayers if those assets are managed, marketed, and sold carefully.

The third task relates to RTC management. We have an overriding responsibility to the taxpayers to change the way the RTC has been doing business. We must ensure that the RTC is managed in the most efficient and responsible way, according to the best management practices under a carefully considered business plan.

We must take action to protect the public against needless expense in the RTC's management of its contractors, to prevent fraud and waste, and to correct deficiencies found by the RTC's auditors. We have to move on those once the auditors tell us about them, to see that the mistakes are not repeated again.

We must use the best available information systems to identify and track assets.

You made the point about not knowing what they owned. There's a lot of truth to that. You can't make good decisions unless you have good information on which to base those decisions. And we're not going to get that corrected overnight. It's going to take some time to do it.

Some of you fellows who have managed businesses understand that kind of problem and that kind of concern.

Finally, we must plan for closing the RTC as soon as possible, without impairing RTC operations, ensuring an orderly transition of RTC personnel and systems to the FDIC that my friend from New Mexico was referring to, and my friend from Idaho.

I've asked Mr. Hove and RTC's new leadership to establish a joint FDIC/RTC task force, both to be sure that the FDIC has sufficient resources to manage the Savings Association Insurance Fund, and to plan for the return of RTC personnel and the transfer of its systems to the FDIC.

Now, let me turn to the RTC's efficiency. As Chairman of the Oversight Board, I pledge to use the Board and its staff to improve RTC management practices in order to earn taxpayer trust in the RTC and to effect savings to reduce the deficit.

Part of the problem is that we, on the Oversight Board, don't have the authority to get in and really manage this. But I'll tell you this. The fellow that we recommend to be the permanent CEO is going to be committed to these things we're talking about and trying to accomplish these objectives.

Mr. Casey has resigned as the CEO of the RTC. We're grateful to him for his leadership and for his service to the country in this difficult and complex job.

The President has replaced him, on an interim basis, with Roger Altman, the Deputy Secretary of the Treasury, under the Vacancies Act.

Under the terms of that Act, Mr. Altman will serve as long as necessary within the constraints of the Vacancies Act, or until the President can appoint a permanent RTC CEO.

Now he has a lot of other responsibilities, but he's going to provide the leadership for the RTC during this transition period, and will begin to put in place, as soon as possible, the programs that I'll describe for you today.

To put these programs in the proper context, it is important to keep in mind the RTC has been in existence for less than 4 years. It's seized over 730 institutions, taken possession of over $400 billion in assets. Any organization, be it public or private, that reaches that kind of size so quickly, is bound to have operations that need to be improved.

Look at the size of this. Take a look at Citibank and its size and the history of its operations. Take a look at some of the major banks of this country and the problems that they've had during this period. Then talk about putting together something larger than any of them in a period of 4 years, and take failed institutions' assets that have dropped in value, nonperforming loans and try to talk about liquidating that. That's the kind of problems that have been faced.

To demonstrate this administration's dedication to improving RTC efficiency, I have asked the interim CEO to begin to imple-

ment the administrative actions shown on Chart VI, that's in your handout.

These initiatives are intended to strengthen the RTC's management in a number of critical areas. They'll take time to be put in place, but we will begin them now.

Don't think you're going to stop hearing horror stories this day. They're still going to be coming in, and we're still going to be addressing them.

These initiatives are intended to strengthen the RTC's management in a number of critical areas.

First, we want to strengthen the internal controls against waste, fraud and abuse.

RTC will conduct a thorough evaluation of all of its internal accounting, and administrative control systems, identifying the weaknesses and developing ways to fix them. Let me explain.

Internal controls are the systems that an organization relies on for, one, reliable financial recording and reporting, and two, ensuring efficiency and preventing fraud, waste, and abuse in operations.

Reports on the results of the evaluation with a plan for correcting the weaknesses will be made to Congress, the President, the Oversight Board, OMB, and GAO, as required by law.

This action, perhaps more than any other, is the taxpayers' first line of defense against waste, fraud, and abuse in all RTC programs, including affordable housing. I think, had those systems been sufficiently strong, the Western Storm and the HomeFed incidents probably would not have occurred.

Second, respond to problems flagged by the auditors.

RTC will implement a system such as required under OMB guidelines for all other Government agencies, and provide prompt, systematic and effective followup on the findings and recommendations contained in the reports issued by the GAO and the RTC's own inspector general.

When audits uncover problems, this is the system relied on to correct those so they don't reoccur. The RTC must not repeat its mistakes after the auditors have brought them to the management's attention. A thorough audit followup system should ensure that the recommendations of the auditors receive prompt attention.

Third, prepare a comprehensive business plan for the balance of the cleanup.

I have directed that the RTC prepare a comprehensive business plan for the balance of the cleanup. The plan will include RTC's strategy for the sale of its remaining assets, many of which are hard-to-sell real estate, and nonperforming loans.

The Oversight Board will review the plan and the strategy in an effort to maximize the return to the taxpayer from the sale of the assets.

I've asked the interim CEO, Mr. Altman, to have the RTC officer with responsibility for minority and women's programs report directly to him. And I've asked that he develop ways to provide more opportunities for minority and women-owned businesses in the management and disposition of RTC assets.

I've also asked that the RTC make improved efforts to preserve contracting and asset acquisition opportunities for minorities, for women, for small businesses, and small investors.

Fifth, to improve the RTC's professional liability section. I've asked that the interim CEO review and recommend improvements in the organization and staffing of the RTC's professional liability section.

These are the RTC lawyers who pursue claims on the taxpayers' behalf against thrift managers and others who contributed to the losses through negligence or misconduct.

We are committed to building a PLS that operates in a professional and competent manner, subject to appropriate management review.

Sixth, I've asked the interim CEO to take action to improve RTC's management information systems, so that the RTC has complete information on its assets, and that its management information needs are met.

Seventh, strengthen the contracting systems and contractor oversight.

I've asked the RTC to review and strengthen its contracting systems and improve the oversight of its private sector contractors.

The RTC has tens of thousands of contractors working on many types of assets. It must make every effort to ensure that the taxpayers' money is being spent for appropriate and timely services, and that the RTC is getting what it's paying for.

Eighth, consistent with strong Congressional interest in establishing independent chief financial officers for all the agencies, I've asked the RTC to appoint a Chief Financial Officer who does not have other operating responsibilities.

And finally, appoint an audit committee. I intend to appoint an Audit Committee of the Oversight Board to monitor and advise on RTC's improvement of its internal controls, to monitor its followup on the recommendations of its auditors, and to consider special audit and accounting issues as they arise.

In summary, it's a pretty ambitious program. Achieving the results is going to take time and it's going to take hard work. And we'll probably make some mistakes along the way.

But we intend to place the RTC on a sound management footing and give renewed emphasis to one of its central objectives, that is, maximize the savings to the taxpayer.

The final import task ahead is to put the RTC out of business as quickly as we can, perhaps well before December 1996, the date that is contained in FIRREA.

I've told you how this administration plans to improve RTC operations to win taxpayer trust, and your trust.

I now must ask you for prompt passage of the Thrift Depositor Protection Act of 1993,. which I sent to the Speaker of the House and the President of the Senate.

This bill provides an additional $45 billion to permit the RTC to resume its work of closing insolvent savings and loans, and protecting their depositors, and to fund the SAIF.

On chart VII of your handout is the history of RTC funding.

In December 1991, the RTC Refinancing, Restructuring and Improvement Act provided another $25 billion, but this Act prevented any use of those funds after April 1, 1992. That's kept us from closing a number of institutions.

Because of this restriction, the RTC was able to use only $6.7 billion, bringing the total RTC loss funding to $86.7 billion. Of this amount, the RTC has had to retain something in the way of emergency funds, some $2.3 billion.

As you know, Mr. Chairman, with your leadership, and as you've commented earlier, the Senate passed a bill providing $43 billion for the RTC. The House, however, defeated a measure that would have provided $18 billion. Thus, we've been without sufficient funds to resolve institutions for almost a year.

Our request for funds consists of two parts, $28 billion to fund the RTC and $17 billion to fund the SAIF. Passage of our combined requests, when added to the $87 billion already provided, would bring the total of all RTC, and SAIF funding to $132 billion for the 1989–98 period. The table in attachment I gives a more detailed picture of those estimates.

I should note that if the RTC does not use all the funds provided to it, the unused portion can be transferred to SAIF. And of course, if the full amount provided is not needed, it will not be drawn by the Treasury.

How does that compare with the previous projections. The last administration estimated that the cost of the cleanup would fall in the range of $100 billion to $160 billion.

In its appearance before this committee in July last year, the Oversight Board estimated the cost could fall close to the middle of that range, or about $130 billion.

Our request today for $45 billion would bring total RTC/SAIF funding to an amount close to that estimated by the Board last year.

Our request goes beyond the Board's request last year because it includes an amount to cover losses of SAIF. Let me explain why I think that's necessary.

Until this year, the savings and loan industry's premium assessments have been used to help defray the cost of the 1988 deals.

In January this year, the industry's net assessments began to flow to the SAIF. Thus by October 1, 1993, the SAIF will have about $1.1 billion in reserves.

Foreseeing that industry contributions are going to be insufficient to permit SAIF to take over the RTC and complete its work, FIRREA authorized further provision of funds by Congress to properly capitalize SAIF.

Consistent with the concept in FIRREA that SAIF will need public funding, we are recommending SAIF be provided up to $17 billion to be used to cover future industry losses.

That should allow SAIF to accumulate an expected $1.2 billion to $1.4 billion of annual net assessment income, so as to reach over $7 billion in 1998, as required by FIRREA.

Mr. Chairman, one of the questions I have most frequently been asked is; Is $45 billion enough? I'll tell you, I sure don't want to come back before you and ask for any more.

The CHAIRMAN. We like you, but we don't want to see you again, if you do that.

[Laughter.]

Secretary BENTSEN. So I hope I have a cushion there, and that we don't have to spend it. But a lot of that depends on things we

can't totally anticipate; trends in the economy, interest rates, regional real estate markets, what happens to them by 1996. But we've made a very earnest attempt to estimate the cost.

I must say, as you go along and learn what's happening to these things, you become a little more sophisticated. The process, I think, that we've chosen on this has more background knowledge available than in the past.

We think the amount is enough to complete the job once and for all.

It's been suggested that if the RTC has been able to operate since April 1992 without funding, why do you need funds now? That may be an appealing idea, but it is, at best, misleading.

The RTC needs funds to close the existing 83 conservatorships and to protect the depositors in those institutions. Failure to close those conservatorships means that those insolvent institutions will continue to operate in the private sector at a further unnecessary loss to the taxpayer.

This is because, for all practical purposes, insured deposits at conservatorships are Federal Government borrowings. When compared with the cost of direct Treasury borrowings, insured deposits are an expensive way for the Government to borrow money.

If there were to be another delay in funding for another year, the additional cost to the taxpayer, just for existing conservatorships, would be approximately $1 billion.

Now that estimate does not take into account additional conservatorships to be transferred to the RTC, nor the adverse effects on other thrifts of competing with conservatorships, nor the cost of keeping RTC conservatorships and resolution programs in place longer than otherwise necessary.

Losses, due to delays in funding until this time, are estimated at a little over $1 billion. That kind of financial hemorrhaging just must not be allowed to continue. Enough has been lost. It's unfair to the taxpayers, places an unnecessary drain on our financial system, and it prevents the RTC from completing its work and closing up shop.

Funding has to be provided. Depositors just have to be paid. Folks with those size deposits, that's a significant part of their estates.

Mr. Chairman, I said that there are four major remaining tasks to accomplish before the savings and loan cleanup can be completed. Protect the depositors in existing and additional conservatorships; sell the remaining assets; improve RTC management efficiency; and close the RTC quickly, in an orderly way.

I've also indicated that this administration is determined that improving RTC management efficiency will be a top priority and a continuing objective.

I've spelled out a number of ways in which we will accomplish these objectives, through administrative actions and the Oversight Board review. These will take time to implement fully, but we are committed to the effort.

Our purpose is to complete the cleanup quickly, at the least cost, with maximum returns to the taxpayers on asset sales.

We intend to nominate a new CEO who shares our determination and is committed to achieve each of these objectives, and who will effect an orderly termination of the RTC.

We ask that this committee and the Congress respond with swift approval of the funding request. With the provision of these funds the remaining insolvent thrifts can be resolved, their depositors protected, and finally the Resolution Trust Corporation can be closed.

Mr. Chairman, I don't want to go without thanking you for your willingness to hold these hearings early and to move this legislation. You've made it clear from the beginning of this session that you and your committee were ready to work on this issue.

And I've looked at the attendance of people who have come in, and I know they have other competing assignments. But it's obvious you're interested and concerned.

As I said at the outset, we're ready to work with you and all the members of the committee to write responsible legislation that will let us bring to an end the savings and loan cleanup in the same bipartisan effort and spirit with which it began in FIRREA.

Mr. Chairman, that concludes my prepared statement.

The CHAIRMAN. Thank you very much, Mr. Secretary. I think you've made a good, solid, strong presentation today.

It would be my intention to move very quickly with a clean bill that incorporates this request. I've talked to Senator D'Amato. He indicates he is in support of doing that. We'll be working on a bipartisan basis.

You've heard other members today comment for themselves in this way.

Secretary BENTSEN. Let me interrupt a minute. I blew it when it came to Senator Bennett. He's from Utah, instead of from Idaho, and I know that. Tell him.

The CHAIRMAN. It's too late. He's gone now.

[Laughter.]

Senator D'AMATO. He's returning.

Secretary BENTSEN. I served with his father years ago. He's longer in the tooth than I am.

Senator DOMENICI. Mr. Chairman, when that occurred, he said "that's close enough."

[Laughter.]

Secretary BENTSEN. Tell him I apologize.

The CHAIRMAN. So it's our intention to move quickly and with a clean bill on this issue.

With respect, just for the record, and just so everybody's clear on it, the administrative reforms that you lay out on chart VI, a number of things you cited to explain, these are all administrative changes and reforms that you can do without any changes in the law?

Secretary BENTSEN. That's correct.

The CHAIRMAN. And the signal's already been given to do this, and these administrative reforms, I take it, are now underway?

Secretary BENTSEN. That's correct.

The CHAIRMAN. The committee has your commitment, and I take it that without having to have changes in law in this regard, that

these reforms will be carried out exactly as you've laid out here. In other words, the commitment that you're making to us——

Secretary BENTSEN. As exactly as I can make them.

The CHAIRMAN. I understand. But the point is, these things will happen, and they are happening.

Secretary BENTSEN. Yes.

The CHAIRMAN. Very good.

Mr. Altman has been named to take over the RTC on an interim basis.

Let me just ask, I think it's important that we know this for the record too, because we want to make sure this place gets the guidance at the top. And you obviously feel that way. You've sent a top person over to do it, one of your top people.

How much time do you foresee this assignment taking now, say, over the next 30 to 60 days? What percentage of your time is going to be required to make sure that we're on track and these things are being done?

Mr. ALTMAN. You know, Senator, that gets into what it's like to work for Lloyd Bentsen. I want you to know that he's very supportive, as long as you don't go home and go to sleep.

But my answer is, I'm going to start on that list of eight or nine items right now, and I'm not about to go to Secretary Bentsen or other members of the Oversight Board with excuses as to how I'm distracted by other things.

This is a very serious assignment. And I'm very familiar, from my previous background and general awareness of the difficulties that face us in terms of improving the administration of the RTC.

Whatever it takes to get that agenda going in a way that will be satisfactory to you and this committee is what I'm going to do.

The CHAIRMAN. I certainly have confidence in your ability to do that. We've worked together and you did, with this committee, on the Chrysler loan guarantee legislation and a number of other issues.

I guess what I'd like to say to you is that I don't think the RTC can run itself, and for the time that you're in charge of it, I really expect you to be in charge of it. If it takes half your time or three-quarters of your time or whatever part it takes, I think it has to be given, and not sort of compromised with respect to other duties in the Treasury Department.

I realize there's a great pressure in terms of the hours of the day. I think this is an institution that needs leadership at the top. It cannot run itself. And that's no disrespect to anybody. But let's just be as plain as we can be about it. Let's not even have that as an operating presumption. You have to run it from the top, so I expect you to give the time to it that it takes to get that done.

Is there a search underway for a permanent replacement for you now? Can you tell us anything about that, Mr. Secretary?

Secretary BENTSEN. The search is underway and is being met with great enthusiasm by Mr. Altman.

[Laughter.]

The CHAIRMAN. He's helping you find candidates, is he?

[Laughter.]

The CHAIRMAN. He's probably the right fellow to put in charge of the search committee. So the intention, though, is to find someone appropriate to this responsibility at an early date?

Secretary BENTSEN. Absolutely.

The CHAIRMAN. In the interim, Mr. Altman, we count on you to be in charge of this operation without delegating that duty to somebody else.

Mr. ALTMAN. Yes, sir.

The CHAIRMAN. I think that's very important.

Mr. Secretary, did you either respond or assign somebody else to respond to the issue regarding the sale of the RTC assets that are left?

I think what has happened over time is that the assets that are the most readily disposable have been sold off by one means or another. And the residual assets left are the hardest ones to sell.

And we're seeing the recovery percentage go down over time, as you might expect, partly reflecting that. So the average of 92 percent recovery on book value, we don't expect that you're going to be able to accomplish that with these residual assets.

Who can tell us what's in that residual asset category, and what we might expect in the way of recoveries in working those off, and how are those to be worked off?

Secretary BENTSEN. Mr. Chairman, I'd like to call on Lamar Kelly to comment.

The CHAIRMAN. I think he just had cardiac arrest.

[Laughter.]

Mr. KELLY. Mr. Chairman, while it's true that hard-to-sell assets have been sold at a slower pace than the easier-to-sell, we have sold approximately $100 billion worth of hard-to-sell assets.

We are now down, as Secretary Bentsen said, to the hardest of the hard. That consists of about $100 billion.

Twelve percent of that is pure real estate owned, quoting these numbers from memory, about 13 percent of it is other assets that includes subsidiaries, furniture and fixtures, leased home improvements. Everything known to man is in that category.

We also have nonperforming commercial mortgages that comprise, I believe, around 18 percent of that total. Those mortgages are in various stages of sale or workout.

We have about $20 billion in outstanding contracts. We have various sales initiatives going on with respect to those assets.

In addition, we have construction loans, other types of hard-to-sell assets like that.

We still have a residual one-to-four family loans that are really the hard core of our one-to-four stuff, and we're selling that one-to-four nonperforming mortgage primarily at auction. We're getting very good returns on a public outcry auction basis.

So there's about $100 billion left, as you indicated, and it's really spread across the board.

Secretary BENTSEN. Mr. Chairman, nevertheless, I'm asking for a full review of the assets and the asset sales strategy by the RTC, and by the Oversight Board.

The CHAIRMAN. Do you have built into your estimate—and I'll just finish up on this point and yield—do you have built into your

estimate, an estimated recovery percentage on that $100 billion of difficult assets?

Mr. KELLY. Mr. Chairman, we have a review of the assets that we have in receivership done by an independent accounting firm on a quarterly basis. And the current estimate of recovery on that $60 billion is about 55 percent of book value, or the carrying value of those assets.

The CHAIRMAN. Fifty-five percent? Now that's not of the whole $100 billion?

Mr. KELLY. This is $60 billion. The remaining amount we would expect to be up in, I believe it's the 65 percent range on the whole $100 billion.

The CHAIRMAN. We can come back to that.

Senator D'Amato?

Senator D'AMATO. Mr. Secretary, let me first commend you on your presentation, particularly as you touch on the areas that so many of my colleagues have anecdotal stories about in terms of excessives, the treatment of people, the institution that they've dealt with has fallen under RTC and there's nobody for them to talk to, no one to negotiate a workout with, et cetera.

I know and I feel confident that you are sincerely committed to dealing with some of these problems and the problems that the GAO has touched on. So I'm not going to focus on that at all.

I would like to reiterate what I said earlier. I have been supportive in the past of seeing to it that we put up the funds to minimize the eventual impact and cost to our taxpayers to deal with this problem, and not just to vote no, and say, see I wouldn't vote to give the taxpayers' money away.

As you correctly point out, the media did a great disservice by calling it the bailout and creating in the minds of the public the idea that we were going to bailout the bankers who were responsible and all the bad people who were responsible.

I want to commend you, that you put it where it is. It's 21.8 million individual depositors who have no culpability in this, and who would have lost their money, an average of $9,000.

So I commend you. It's important that we get that message across.

The job of the press is to sensationalize, make this look like a bunch of robber barons, crooks, thieves, et cetera. That is totally irresponsible.

But there's one area, and maybe it's a bit esoteric, but I'm concerned about it. It has to do with the promises that the Government made in inducing a number of sound healthy thrifts to come in, when we didn't have money, to take over some of the failing institutions.

There are a number of them that I am personally aware of that are good, solid institutions, and on the promise of good will, we said, all right, you take over $500–$600 million worth of debt a year. There were no assets there. We know that's a half a billion dollars. But you know how to run a thrift. We'll give you 15 or 20 years to pay that off, and eventually it won't cost the taxpayers any money, and we'll carry it on your books for accounting purposes as an asset.

Well, we passed FIRREA and we don't take into account goodwill, notwithstanding the protest of some of us who said: How can you do this?

You say to someone, well, we made a promise and we're wiping it out. It doesn't matter. We made a contract with you, but we're breaking the contract.

Now some people have gone to court. There are a number of court cases in litigation; some in California, some in other regions. And by gosh, to the credit of the judiciary, in a number of cases, they've come down and said, Government, you're wrong. You can't be doing this.

Now the potential exposure when these cases come to finality is billions of dollars to the Government.

One thing, could we have a study made? Would you look into ascertaining what the potential liability realistically is in these cases.

I think it's something we ought to get a handle on. I don't think the previous administration has looked at this. And I wouldn't expect you to have a number right at hand.

But I think it is important for us to ascertain just what is the potential liability to the taxpayer.

And second, what, if anything, can be done to reduce the taxpayer's exposure? Because I believe that in some cases, we still might have an opportunity to reduce taxpayer liability, even though these cases have gone into litigation. And if you need legislation, you'll be in a position in the new administration to address what I think may be something that is morally and legally unprincipled and wrong.

And third, financially it doesn't make sense, if we're going to wind up getting hit with huge judgments. Is there a manner by which we could reduce that possible exposure?

Secretary BENTSEN. I'd like Mr. Fiechter to speak to that.

Mr. FIECHTER. We could certainly undertake such an analysis to look at the good will on the books right now of institutions.

Senator D'AMATO. And the potential litigation you have.

Mr. FIECHTER. What the exposure would be, should those institutions prevail of course, would be quite a range, because, as you may know, at least from the standpoint of cases that OTS has defended against, we have won virtually all the cases.

On the other hand, they have been more toward our ability not to include good will. They haven't addressed the question of the Government's exposure, which is really another area. But, yes, we can take a look at that.

Senator D'AMATO. You haven't looked at that to date, right?

Mr. FIECHTER. We have looked at the amount of goodwill. We have not estimated the exposure of the U.S. Government, should those cases be lost.

Senator D'AMATO. I'm just urging, Mr. Secretary, that you take a look at it, because I think there's a potential big hit going into the billions. If there's some way to address it now and limit that exposure, I know that's something you'll want to do, so you won't have to come back and say, by the way, we got hit with x numbers of dollars in judgments over and above.

And once they go to a final judgment, you know, the plaintiffs are going to be riding high and they're not going to want to make any settlements.

So maybe you could ask them to look into that.

Secretary BENTSEN. We will do that.

Senator D'AMATO. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kerry?

Senator KERRY. Thank you, Mr. Chairman.

Mr. Secretary, thank you very much for your broad and I think important statement today.

I think it embarked on a very necessary and important effort here to try to address some of the concerns that have applied recently.

I must say, based on the brief period of time that I've had the privilege of serving with you up here, I know that your word is perhaps one of the most bankable assets we have in Washington. So I appreciate your commitment to undertake these efforts. And I'm confident that they'll be genuine and far-reaching.

I can't help but note a minor observation of perhaps discord or at least frustration with the years past. I don't do this to engage in any kind of partisan effort here, and I don't want to go off on that.

But what you've proposed here is what many of us were asking for for a long period of time. And, frankly, it should have been very easy for people in oversight position to want to have happen. So it's overdue, but very important, and I welcome it.

I'd like to see if we can't flesh out, a little bit, a couple of aspects of it, perhaps.

First of all, on the representations and warranties aspect, you said in your testimony that the properties that remain are among the most difficult. And that's obvious, for market reasons, they will be.

Do you envision that it will be necessary to offer even more representations and warranties in order to get those properties moving? If so, do you think that those can be perhaps more narrowly drawn than they have been in the past, to minimize exposure?

Secretary BENTSEN. Senator, I would hope we wouldn't have to do more in the way of representations and warranties than we've done in the past.

The very nature of those assets, I think, are going to require pretty sophisticated people to get involved in those kinds of risks in trying to utilize such assets. So I would not see the justification for additional ones.

Senator KERRY. I assume then that the overall policy would be to try to minimize representations and warranties in the overall. I know they were suspended at some point in time.

I just wanted to understand whether there was any kind of place that you want to put them.

Secretary BENTSEN. To the extent we can limit liabilities, obviously we'd want to. And we're talking about preparing a business plan to address those kinds of issues.

Senator KERRY. On a second area, again, from the GAO report, they observed that the RTC has no way of really estimating the ex-

tent of losses that may be currently occurring with respect to private contractors.

There are some 95,000 separate contracts in the private sector, but really inadequate oversight on them. So I know you have a general category here of strengthening internal controls on waste, fraud, and abuse.

I just wonder, perhaps, if Secretary Altman or somebody could give us a little more sense of a time line on that, and what specifically might be undertaken to deal with the private contractor oversight issue.

Secretary BENTSEN. The internal controls, that we talked about; review and development is underway now to accomplish that. But also important are the audit procedures, and responding as quickly as possible to those findings.

But I'll call on the Deputy Secretary for any further comments.

Mr. ALTMAN. I don't think it's possible, Senator, to give you an honest time line, because, speaking for myself at least, I'm obviously just starting this.

One point, though, the contracting procedures in the RTC have been rather decentralized. Our decision is to change that, and to establish or reestablish control here in Washington over all contracts of any significant consequence.

As Secretary Bentsen said, many people I know in this town forget or don't stop to think about it. You have here an organization which has become larger than any other financial organization in the private sector, in the space of 4 years. Any effort like this, if it were ever made in the private sector, would be subject to all kinds of growing pains.

So without excusing the kinds of problems that the RTC has faced, those types of problems would be very predictable.

So we very much intend to make some changes in the contracting procedures and try to minimize some of the matters, like the Home Fed fiasco and other things like that which have occurred.

But, I'd rather not pin ourselves down to a specific date, except, to tell you that we're going to get right on it.

Senator KERRY. Would that also hold for the loan services portfolio, that some $7.5 billion that's in mortgages and loans right now that also doesn't have oversight? Does that fit into the same category in terms of the audit process?

Secretary BENTSEN. That would be subject to the audit process also, absolutely.

Senator KERRY. It will be subject to the new audit process?

Secretary BENTSEN. That's correct.

Senator KERRY. Because, as of this moment, there is no accountability or review whatsoever.

Secretary BENTSEN. Well, I assume there is some.

Mr. Roelle?

Mr. ROELLE. Senator, with respect to the loan servicing, we've just completed, at the request of the Oversight Board, a new loan servicing program that we worked with GAO on, and we just presented the results of that program to them within the last few weeks, about the things that we're undertaking to do more in the way of overseeing outside services..

However, we do have audits performed on them periodically through our own staff, to try to go out and have program people, along with accounting people from our accounting staff go in and look for the internal controls on the outside service route.

But there is much work to be done, and we are working on it.

Senator KERRY. I want to be fair. I see my light is on also. And I want to be fair there. But let me just make an observation.

I think it is important for all of us to not demagogue the downsides here, but also recognize the upsides. And I think there are upsides.

There's been 95 percent recovery of book value of the overall assets, and a remarkable shoring up of the system that people were very worried about at one point in time. And it is an extraordinarily large business and has grown to be so in a remarkably short period of time.

So I suppose one has to try to balance whether the downsides are somehow out of whack with what you might expect, either in the private sector or elsewhere, in that kind of program.

I probably don't know the answer to that question, but I do know that much of this was being flagged 2 and 3 years ago, as we voted on a number of those resolutions.

In fact, we couldn't get them through. We had dead-of-night voice votes on a number of these things for the very existence of these kinds of problems.

And now finally, and I say thank you, we have a comprehensive effort to try to put in place what many of us thought should have been automatically in place at that point in time, which was like pulling teeth to get.

So I welcome it and I hope it will be fruitful for all of us. And I think it's a very important part of building the confidence of the taxpayers.

Thank you very much.

The CHAIRMAN. Thank you, Senator.

Senator Mack?

Senator MACK. Thank you, Mr. Chairman.

Mr. Secretary, at the House Banking committee yesterday, and here this morning, you have given emphasis to improving audit procedures, tightening internal controls, strengthening systems and procedures in the contracting process, each of which can certainly be done and implemented as soon as possible.

What I'm interested in is your own reaction to a number of situations which have become anecdotal in a number of our offices, where it might be said that the borrowers, often developers became victims.

I'm referring to the kinds of situations where these people had lines of credit from their financial institutions, saw these institutions taken over by RTC, funding on these lines of credit stopped, developments in process stalled, financing sources evaporating for potential buyers of units in these developments, resulting in defaults by developers, subsequent foreclosure by RTC, then protracted negotiations between developers, RTC's attorneys, asset managers, and the layers of local, regional and national RTC bureaucracies.

Some of my constituents who have found themselves in the kind of situation I've just described have been, or are in the process of financial ruin.

They describe instances where agreements reached and commitments made are not kept, being treated with a lack of integrity. These charges are quite serious and quite difficult to substantiate.

We, members of the Congress, as you well know, are contacted by people who've experienced varying types of difficulty in attempting to resolve their problems with RTC.

Often we find ourselves feeling very helpless in many of these situations where our roles are largely limited to letters and staff inquiries.

I sense a growing number of frustrated, unhappy, angry participants who find themselves on the losing end of negotiations with RTC.

I'd like to get your opinion on the creation of an arbitration or appeal process to serve as a checkpoint to assure that a vehicle exists which makes RTC negotiations subject to an independent review process.

I guess bottom line what I'm saying, Mr. Secretary, is that there are people out there who feel like they've been mistreated, whose basic rights have not been protected, and they have no appeal process.

So I'm just tossing this out to you this morning for your consideration, to see what thoughts you might have as to whether it is a reasonable idea to provide individuals around the country with some appeal, some place to go to be able to make a case that they have not just been mistreated, but that their basic rights have been violated in the process, and as a result, they've lost everything that they've worked so hard to build up over the years.

Secretary BENTSEN. I'd like to ask Lamar Kelly to comment on that. We have an ombudsman's role in that, as I recall.

Senator MACK. Again, I would say to the Secretary, I'm well aware that there is an ombudsman's role. I'm suggesting that there is a need to go beyond this. There has not been enough sensitivity shown to some of these problems.

Mr. KELLY. Senator, I would just state at the outset, the RTC, when faced with foreclosure versus restructuring versus additional funding decisions, restructures 65 percent of the time. In two-thirds of the instances, we do engage in restructuring.

The very nature of the loan workout process is very contentious. So that you're going to have borrowers who, for whatever reason, allege unfair treatment on the part of the RTC.

We're very very sensitive to that. We have made extensive efforts to get our private sector contractors to always engage in restructuring decisions whenever possible, because it's really a no-brainer that if you can restructure, you are much better off financially than you are if you engage in legal proceedings against that developer.

In a number of instances, we do advance additional funds. But, at the same time, we try to make clear to these developers that the Government is not a long-term source of funds for them.

With respect to the appeals process itself which you outlined, we do have within the system a review process, a committee process requiring that these decisions be reviewed by panels.

In effect, we have somewhat what you are getting to now.

Senator MACK. Let me ask this question, then. Does the borrower have the same legal rights in its dealings with the RTC that they would have had say with a commercial bank?

Mr. KELLY. I am not an attorney, but my limited understanding is that we have certain rights to abrogate contracts in the future.

Senator MACK. Does anybody know the answer to that question? Are the rights—Yes, Mr. Jackson.

Secretary BENTSEN. I would like to call on Mr. Philip Jackson who is a member of the Board, and a former Governor of the Federal Reserve Board.

Mr. JACKSON. My experience comes from 25 years of experience in mortgage banking and real estate.

I think you have identified a problem here that the public is not as familiar with.

Our deposit insurance protects the deposit customers of a bank of which you were a member at one time in your career, I know, but unfortunately we forget that the borrowers are also victims of a failed financial organization for which the public offers nothing.

And in fact, has given RTC and FDIC—I am sure the Chairman will tell you—the right to abrogate all these relationships, and these people in many cases are greatly devastated.

I think your suggestion for some type of an appeal process, or some way in which they could appeal for equitable relief for the damage that they have suffered due to no fault of their own for the failure of the other party to, as agreed, when their organization fails.

We all know that banks are not unique in that respect. In any other two-party transaction, when the other party fails, the surviving party suffers. We know that.

But in this case there is a strong public interest. And I suspect that as we talk about this credit crunch problem, this may be a small but a very painful part that we have experienced as these processes exist.

Because whether you are a bank, or a savings and loan, or you are a lender in any context and you go out of business, you have to go find a new one.

You can imagine how difficult it is to find a new one when you have got half a finished project and you are in difficulty with the other one, and so forth, and so forth. That is an extraordinarily difficult aspect of our economy that we have not found an equitable solution to, in my judgment, as yet.

Senator MACK. Thank you for those comments.

Mr. Secretary, did you have anything you would like to add?

Secretary BENTSEN. Listen, I think he has done well. I am delighted with his comments and I, agree with him.

Senator MACK. I look forward then to working with you all to develop some kind of an appeals process, then. That is very helpful.

Let me move to the other area that I said I wanted to pursue which had to do with, again, the concern that I raised I don't know whether it was a year and a half, or 2 years ago, a year ago, with respect to the dumping of real estate onto the market.

There has always been a debate about whether the market's reaction is really one of a lack of credit over building.

And when I raised this question, my concern was that RTC was in essence hell-bent to get rid of assets and, as a result of that, it was further depressing the real estate market.

I am not sure, but I think, Mr. Larson, I think you responded to me at that time and referred in essence—I have run out of time, excuse me.

The CHAIRMAN. You have. I do not want to cut you right off, although there are five members waiting. If you can ask it quickly and maybe get a quick response now that you have started, we should do that.

Senator MACK. Thank you, Mr. Chairman.

The fellow from Florida who was on the Board in essence you said that to me, he indicated that there really was not a problem caused by the excessive speed to sell these assets.

When that individual resigned from the Board, he wrote a letter of resignation in which he said that he was concerned that the speed upon which real estate was being sold was in fact depressing the market.

So I guess what I am saying—and I guess at some other time we could get that further response—but my concern is that if we authorize the additional $45 billion, that we are now going to take this cumulative total asset of about $150 billion to be sold in a very short period of time, and it could be very depressing on the real estate market.

Secretary BENTSEN. Let me tell you the other part of that.

If you have an overhang of that market, that is often exaggerated beyond what it really is. That could have a psychological impact, too. I would refer this to Mr. Larson.

Mr. LARSON. Your recollection is quite accurate, Senator Mack. Phillip Sherrill, who was from Florida, who is the Chairman of the National Advisory Board to the RTC, has, as a matter of practice during the time of his Chairmanship, ensured that all the regional advisory boards, as well as the National Advisory Board, asked that question at every meeting as they met around the country.

They were consistent in their response to the inquiries. Consistently, without exception, it has been reported back to the Oversight Board and the RTC that there has been no general market impact resulting from the activities, the disposition activities, by the RTC.

That is a different point than the one the Secretary has just made, that the very existence of that inventory I think clearly has had an impact on markets.

What Phil Sherrill said, I believe, in his resignation letter was to not express concern on that point, precisely, but rather concern on the perceived rush to a premature and too hasty termination of the RTC itself and all of its disposition activities.

I think it flagged for the Oversight Board his concern that his early termination, which President Casey was recommending at this time, that in his judgment at least was not in the best interests of an orderly process that would minimize the cost to the taxpayer.

Senator MACK. Thank you, Mr. Larson.

I thank the Chairman.

The CHAIRMAN. Senator Shelby.

Senator SHELBY. Secretary Bentsen, as I said, we welcome you.

I believe this is the first time you have been before this committee in your present position as Secretary of the Treasury to ask for money.

Secretary BENTSEN. This is the way it looks from this side.

Senator SHELBY. It works both ways.

But what has bothered some of us before, your predecessor has been before this committee when, the first time, I asked the question on the $50 billion, and I asked the question right here in this room, Mr. Secretary:

Is this going to be enough?

Yes.

We have a transcript.

I read it here before.

Yes, it is going to be enough. $50 billion.

We have been through this.

Is the $50 billion, 28-year planning use, as I understand, to take care of current problems, or the problems you anticipate between now and the end of the year? Is that right, Mr. Secretary?

Secretary BENTSEN. Not to utilize it all during that period, but that part of the funding is for the Resolution Trust Corporation, which would continue in the disposition of assets over a period of time well beyond the end of this year.

What you will have after September 30th are those institutions that will be transferred to FDIC.

So there is a division.

Senator SHELBY. It is created by statute, isn't it?

Secretary BENTSEN. Yes. It is created by statute.

Senator SHELBY. Of the $17 billion that you are interested in and that you are requesting for the insurance fund, where did you get the numbers?

Will you share that with us, the $17 billion, for the insurance fund? Because some people think that that is more than you are going to need. It might be less.

Secretary BENTSEN. I hope it is more than we are going to need.

I must say, that we have consulted with the various agencies that have been involved.

We have had CBO making estimates in that regard. CBO's estimate overall was not $45 billion but $50 billion.

Senator SHELBY. That is right.

Do you feel like your numbers are better than theirs? More conservative than theirs? And you can do more, with less?

Secretary BENTSEN. What we have tried to do is get the best numbers we can from the most sophisticated sources we can.

We have had the OTS. We have had the FDIC. We have had them all working together.

We have had regional representatives evaluating in those areas. We brought all that together, trying to learn from the experience of the past and the failures of the past, to give you our very best judgment.

Senator SHELBY. Where did all these other numbers come from? Did they come from the same source?

In other words, when your predecessor would come before the committee, were these numbers that he was asking for first, Secretary Brady, for the $50 billion, which I supported? And then, the

subsequent numbers? Did they come from FDIC? Did they come from internal sources such as that tube?

In other words, are the sources similar, or the same?

Secretary BENTSEN. Let me call on Mr. Roelle for that, he was there at the time.

Senator SHELBY. Sir, in other words, what I am getting at. Are these numbers derived from the same sources that brought forth the other numbers that we have heard before that we are going to take care of this?

Mr. ROELLE. Generally speaking, they are from the same sources. If I could take a little time to explain——

Senator SHELBY. Sure.

Mr. ROELLE. When the original $50 billion estimate was made, that was predicated on no real experience with the S&L crisis. We had not been in any of the institutions.

That was using thrift reports and losses that had been experienced in the past, and trying to look at the number of failures they thought might be affected. That generated the $50 billion. That number turned out to be wrong for two reasons.

One, many more thrifts failed than anybody anticipated. And the losses were worse inside the thrifts than anybody anticipated.

As we began to get more experienced, you obviously saw the number going up——

Senator SHELBY. Did we get a handle on the situation?

Mr. ROELLE. Yes, sir. And we started using more than one model. We were using an FDIC model that relied heavily on bank losses. Once we built up our own experience with thrift losses, we started utilizing a thrift loss model.

We started giving heavier haircuts to each area of loan assets, as our experience had indicated that we were going to have heavier losses in the thrifts.

That is when you started doing the estimates, and people were pretty sure it would be between $100 and $160 billion, and nobody wanted to be too explicit at that time because we didn't have much experience.

Toward a year ago as we began to turn the corner and got to the point where we had many of the thrifts in our control, and we had already resolved many of them that were in that initial 264 that we had when FIRREA was signed, we had a much better feel for what losses were.

Those were the times when we started getting close to the $130 billion mark, and RTC was talking somewhere in the neighborhood of $25-or-so billion to finish the deal.

As far as the RTC was concerned, what has now happened is the Treasury Department asked all of us to get together, RTC, OTS, FDIC, reconcile all the thrifts under conservatorship that the OTS expected to give us, as well as what the FDIC was seeing in their role as a backup regulator for the thrifts, and reconcile all of those and try to come up with a number that would take care of what the RTC needed to do, and what the SAIF fund would have to pick up once we stopped taking thrifts in.

The $28 billion is of course for us. That would allow us to continue to take thrifts up until September.

However, we will be resolving thrifts.

Once we get them, we will continue to resolve them after September, and that $28 billion will be used for those resolutions, as well as any asset reserves we would have to increase as we go through this cycle.

Senator SHELBY. What will the $17 billion be used for?

Mr. ROELLE. The $17 billion is for the thrifts.

We have used the terminology "on the cusp," the ones that probably will fail, but will not fail while we are still allowed to take them, as well as thrifts looking out into the future.

And they have looked as far as the next 3 or 4 years, that are in serious capital situations where their earnings and their current performance may make them candidates for failure because they don't look like they will appear to earn their way out of their problems.

The $17 billion is to account for the FDIC being able to take those, because the premium payments that are coming in from the thrifts now will not be sufficient to adequately fund the SAIF fund in order to take care of these nearer-term failures.

Senator SHELBY. How much will come in?

I know my time has expired, but how much would come in in the insurance fund? Because I think Congress intended, once the RTC was concluded, that the industry pay their own way after that. Maybe they can't pay their own way.

Mr. ROELLE. Not right at the moment.

If you will recall, FIRREA provided for much of the income to the SAIF fund to be utilized for other payments. There are some payments that go to the bonds that were issued by the FSLIC. Some payments come in there to help offset interest payments.

There are a number of payments that come in to SAIF from the thrifts that go back out almost immediately to fund other things that were obligated under FIRREA.

So while you do have income coming in, much of it goes out.

As near as I can tell—and the Chairman might have a correction on this—but I believe the last number I saw is that the SAIF fund, the net of the fund, would have to go back out to slightly more than $200 million right now.

Now as those commitments end, the SAIF fund will start to build. But it will not build fast enough, probably, to account for these that may be coming in sooner.

Senator SHELBY. Two big losses down the road for the fund?

Mr. ROELLE. We don't know. I think the Secretary indicated that we've tried to make sure there's enough there. The expectations are that we would not probably have to spend all of that $17 billion, but we have tried to make sure that we have got enough.

Senator SHELBY. Mr. Hove?

Mr. HOVE. The projected SAIF fund for 1993 is just under $2 billion. About $800 million of that is committed to the FICO bonds. So there would be about a $1.1 billion amount flowing to the SAIF insurance fund in 1993.

Senator SHELBY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Shelby.

Senator Bond?

Senator BOND. Thank you, Mr. Chairman.

To follow up very briefly on that point, as I look at that, the $17 billion seems to me almost a worst-case scenario that all 105 thrifts who are currently weak will fail; that we will need all the money.

I am a little bit concerned that we are putting out this money now and adding to the deficit if SAIF does not need the full $17 billion. Will the Treasury get it back? What is going to happen to it?

Secretary BENTSEN. Senator, we won't draw it.

Senator BOND. You will not draw it unless it is needed?

Secretary BENTSEN. That is correct.

Senator BOND. Well that is better.

Mr. Secretary, I have a number of specific technical questions that I will hand over in writing and let somebody deal with them at your convenience.

Since I have such a distinguished group here, I want to focus on a couple of broader things.

Back in 1990, my colleague Senator Dodd and I, and ultimately the entire Banking Committee, got behind a measure to set up something called "The Savings & Loan Commission" so that we would get a nongovernmental, bipartisan board to take a look at what went wrong in the savings and loan industry.

A lot of people are drawing lessons—some of them good lessons, but I am afraid some of them are the wrong lessons.

So we set up this National Commission on Financial Institution Reform, Recovery, and Enforcement.

The previous administration's Treasury Department did not like it. They stonewalled it. They sat on it. They buried it. I had to go back and get specific funding for it. Then they dragged their feet again.

There are eight members, very qualified individuals who are serving on it. They are doing some work.

A couple of quick questions. Have you seen anything of it? Do you feel that it can be useful? Have you any plans as to when the report will come out, and what, if anything, useful we might glean from it?

Secretary BENTSEN. I would like to ask Mr. Monroe to comment on that.

Mr. MONROE. Thank you, Mr. Secretary.

The Commission has been meeting, and has been holding hearings, and will issue its report on March 30, 1993.

I have met with some of the Commission members, and my understanding is that they will focus exclusively on the causes of the crisis versus the cleanup itself.

So, we are looking forward to that report on the 30th, sir.

Senator BOND. We hope that we will have it. We had planned to have it by the end of 1991, because I think there are some important lessons that we can learn as we deal with other problems in Government support for activities in this area.

As I said, I have been very disappointed that it was stonewalled for so long.

Permit me to ask a question that goes to the Clinton proposal that came before us as I sat on the Budget Committee to raise funds for the deficit by requiring State-chartered, FDIC-insured

banks to pay a second bank exam fee. The small banks in Missouri would be hit with an extra $20,000 to $21,000 a year on it.

It seems to me that when you are talking about the credit crunch, the last thing you need to do is put another bucket of sand on small institutions that are struggling to keep their heads above water.

From a banking standpoint, does that make any sense?

Secretary BENTSEN. It is with a great deal of pleasure that I ask Mr. Hove to comment on that.

[Laughter.]

Mr. HOVE. Senator, that has been a part of the recommendation from the administration.

The FDIC Board has not as yet received a request from OMB to consider that, so the Board has not yet considered it.

It would be a decision by the Board at the time it was requested by OMB.

As you know, there will be several more Board members on the FDIC, so I can't respond as to what the attitude might be if it were requested by the administration.

Senator BOND. I would suggest that there are some of us at least who think it is a very questionable idea.

Senator Gramm and I were unsuccessful in striking it from the Budget Agreement during the committee mark-up.

We hope that other, more appropriate cuts in spending will be found, rather than that fee.

Let me turn to another idea that is going through the Budget Committee, and perhaps Chairman Greenspan and Secretary Bentsen both would like to comment on this.

Having served awhile on the Banking Committee, I am a bit concerned about the budget gimmickry of saying that we are going to save $16 billion over 5 years by moving from long-term to short-term notes.

It would seem to me that monetary management is a very complicated function that should not be attempted legislatively, and particularly not through the Budget Committee.

Are we not facing the same kind of interest rate mismatch which contributed to the S&L debacle? An interest rate mismatch, or a spread between short and long, may well reflect the market's views that there is a reason for a difference between the short and the long-term maturities.

Secretary BENTSEN. Senator, let me state that we are having a study done by Treasury because whatever is done, I want it to be carefully done with a great deal of study and concern.

I do not anticipate anything drastic or precipitous in that regard and I am awaiting that study before making the decision.

Senator BOND. Could the Chairman comment on it?

Chairman GREENSPAN. Senator, raising the question of Treasury debt management is clearly in the realm of decision-making of the Secretary to make these decisions.

We obviously consult with the Treasury staff, giving our points of view on technical issues with respect to this, but the fundamental choice is the Secretary's.

I do not think that, other than the types of comments that we make directly to him, that I should be publicly on the record discussing this issue one way or the other.

Senator BOND. I do not think it ought to be in the budget, myself.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bond.

Senator Sarbanes.

OPENING STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

First, just on this latter point, it just does seem to me that there is some room for some prudent, and innovative, and beneficial debt management strategy on the part of Treasury, given the situation in which we find ourselves.

In fact, I have even seen some comments that attribute part of the drop in long-term interest rates to a bit of a shift on Treasury's part in their last issuance when they went to the market.

I for one think the study you are undertaking is very important, and it seems to me there are important benefits to be realized well within the range of prudence in handling the debt management. So I sort of encourage you on.

Mr. Chairman, I will be very brief.

First of all, I want to welcome Secretary Bentsen and his colleagues on the Resolution Trust Corporation Oversight Board here this morning.

I very strongly agree with the Secretary in his opening statement when he says it is his desire and need to move forward to close this chapter of our country's financial history. I think it is very important that we succeed in doing that.

Therefore, I think we need to examine these figures carefully. But if they square it with reality, it is my own view that we need to move ahead with this.

The Senate in fact did so last year, as a matter of fact, and provided the tools and the resources with which the matter can be finally wrapped up. We can then move on to a more normal course of business.

I take it that the measures that you indicated on pages 4, 5, and 6 of your statement, "Strengthening Internal Controls," and then on from there, are all measures that you don't need legislation for any of them? That can all be done administratively? I take it you have already set the wheels in motion?

Secretary BENTSEN. Yes, and they can be done, Senator, without legislation.

Senator SARBANES. I welcome those measures. They all seem to me to be very common sensical and sensible. I think they would help the situation. They particularly, I think, would help in addressing problems that keep arising perhaps on an ad hoc basis.

They may not be widespread, but each time such an instance occurs, it casts the whole administration of the operation into some question, and some disrepute if that is the right term.

Therefore, I think these measures which are designed to deal with a lot of those problems would be very helpful.

Mr. Chairman, I will simply close by saying that Secretary Bentsen has a well-earned and deserved reputation as a problem-solver.

It is a matter of great comfort to me that he has grabbed hold of this particular problem.

This is not an easy one to solve, but obviously the statement reflects this ability to come to grips with what the realities are, and to try to address them in a very hard-headed, practical and pragmatic way.

I think that is what is reflected in this statement. I think if we can proceed down that path, there is a real hope that we can resolve this matter and get on and about the other problems and challenges that confront the Nation.

So I wish the Secretary well. I welcome this statement of his.

I have some sympathies for Mr. Altman who has now been put on the hot seat, although he is pretty good, too. You are there for 120 days, I guess? Is that it? Under the law, something of that sort, the designation at least?

Mr. ALTMAN. There are some circumstances under the Vacancies Act whereby it can be extended.

Senator SARBANES. Maybe you can get it all done here very quickly.

[Laughter.]

Senator SARBANES. And make the problem of the full-time successor less a pressing one, but I wish you well in that search, also.

Thank you, very much, Mr. Chairman.

The CHAIRMAN. Thank you, very much.

Senator Faircloth?

Senator FAIRCLOTH. Thank you very much, Mr. Chairman, and Mr. Secretary.

Very, very briefly, we in North Carolina have not had to make the fiasco that so many States have had with the savings and loan.

I have heard of no real problems with close-ups. So I think the RTC is to be commended for the way it has been handled there. I have heard of no major problems.

Having been in business, I know when you have got a problem.

If one is losing money, the quicker one can close it off and shut it down, the better off you are. But in this case, and it probably does not come under the RTC, but if you could just tell me: What are we doing to stop another one from happening with the banks and with the savings and loans? That is the main thing.

You know, we are stuck here. We have got to do what we have got to do. The problem is not to have another one.

Secretary BENTSEN. Let me call on the Chairman, Mr. Hove. You have a major responsibility there.

Mr. HOVE. Senator, we have, of course, strengthened the supervisory responsibilities that we have at FDIC. You have given us the back-up supervisory responsibility over all the banks and savings and loans, and we are looking at them very carefully.

We have added to our examination staff. We have more than doubled the examination staff in the last 4 or 5 years, as has the Office of the Comptroller, and as has the Office of Thrift Supervision.

Many of the provisions that were in the FDIC Improvement Act that was passed by Congress are being implemented, and most of those are designed so that this does not reoccur, the problems we have had in the thrift industry, does not occur again.

I would also add that the earnings of both the banks and the thrifts in this country are improving remarkably.

I think that you have provided some provisions that will prevent this from happening again, coupled with the bankers and the thrift executives in this country being a more disciplined group of executives that will not allow this to happen in their industry again.

Senator FAIRCLOTH. That is all, Mr. Chairman. Thank you.

Thank you, gentlemen, for being here.

The CHAIRMAN. Thank you, very much.

Chairman Greenspan, I will want to raise an issue with you that is in this morning's news, and then relate it to decisions at the RTC here that I think are relevant.

This morning, the February increase in the Consumer Price Index was reported to be 3⁄10ths of a percent, with the core CPI which excludes the food and energy components which are more volatile, up half a percent. I am wondering, are you still expecting the rate of inflation for the year as a whole will decline to something below 3 percent?

Chairman GREENSPAN. Well, Mr. Chairman, I think it is quite correct that the data for the first 2 months are less favorable than the data that we saw toward the end of last year. Indeed, we are getting off to a less-than-auspicious start for the type of projections that we made.

But while there is an obvious concern that we always have, and should have, in looking at the details of these data, if you look at the underlying cost structure of the economy you get a much better sense of the true, basic underlying informationary pressures.

And while it is certainly the case that a number of raw material prices have fallen quite significantly recently, the major reason for that is the acceleration of economic activity. That is precisely what one would expect to occur, and indeed would hope to occur when the economy is firming. Because when you have prices unduly depressed, you are getting restricted profit margins. That tends to depress the levels of activity. But the most fundamental aspect of the cost structure is in unit labor costs.

Because if you consolidate the total system, the major underlying generation of price is unit labor cost, which as you know is the combination of wages on the one hand—"compensation," I should say, divided by productivity.

We do not see at this stage any inflationary evidences within the wage or compensation structure. Obviously there are some very strong elements that emerge in underlying productivity.

Moreover, if one looks at the total credit system, you do not sense any inflationary issues from there. So, while we must clearly remain vigilant, I must say, at this point, that my inclination is to view the latest data as aberration.

But I think it would be a mistake not to remain vigilant and watch these data very closely and, more specifically, watch the underlying structure of costs to make sure that the dampened inflation which I think has been an extraordinarily helpful aspect of the most recent economic experience stays damped.

The CHAIRMAN. Keying back to your last appearance here, I think we if can get the economic package in place that locks in deficit reduction over a period of time, and the other elements of the

plan, that that ought to help. In that area, you have testified along those lines previously.

From an operational point of view within the RTC, is there any way in which the RTC might take advantage of the current lower level of interest rates in terms of how they are managing this problem to help bring the costs down? Because we have got a more favorable interest rate environment here.

Chairman GREENSPAN. I think, Mr. Chairman, that that is a major force in constraining the overall costs of this savings and loan clean-up.

Obviously, with rates at levels which have been very helpful to the cost structure of the RTC, the sooner we clean this operation up, obviously, the better. I think that is the proposal which the Secretary is making, and to which I must say I fully subscribe.

The CHAIRMAN. Mr. Larson, let me ask you: As an independent member, what else, if anything, would you recommend to the new administration that could improve the operation of the RTC?

Mr. LARSON. Well, I am very comfortable, and frankly very enthusiastic about the recommendations that the Secretary has brought before you today.

What may not be so obvious, because it is not explicit in the Secretary's testimony, is that what is being proposed is a cooperative approach, not withstanding the constraints on the authority of the Oversight Board or the administration imposed by existing legislation. It is a cooperative approach between the administration and the Oversight Board and the RTC on a common agenda.

I think this offers great promise and great hope, and frankly is the basis for my enthusiasm with the approach to dealing with these issues that characterizes our testimony here before you today.

I would not add anything more at the present time to the agenda that has been placed before you. I would focus on the right issues. I am personally very enthusiastic about it.

The CHAIRMAN. Mr. Secretary, let me ask you with reference to the matters that Senator Kerry earlier raised involving the RTC Inspector General's investigations. The investigations which Senator Kerry referred to are matters which this committee does have a keen interest in.

I want to be sure that we have an understanding that documents that we may need to have in order to do our work from the RTC or the RTC Inspector General that we will have your cooperation in that area.

Secretary BENTSEN. Let me say, first, Mr. Chairman, if I could interrupt for just a moment, I would like to note with pleasure the return of the distinguished Senator from Utah.

[Laughter.]

Senator BENNETT. You were close enough before.

[Laughter.]

Secretary BENTSEN. All right. Let me say what we are facing on this. The IG Act of 1978 gives the IG a great deal of independence, and the Act prevents me or the RTC CEO from interfering with any auditor investigation.

Let me say that, under the Act, the IG, the RTC CEO and I report regularly to the Congress describing the IG's activities.

The Act also requires the IG to report to me and to the RTC CEO immediately when he knows of particularly serious problems of abuse. We then have to report those to the Congress.

I must also say that I believe in the maximum disclosure of information to Congress, but not if that would jeopardize the process of law enforcement. So I cannot dictate to the IG. I think you should probably continue to deal with him directly.

The CHAIRMAN. We will have to talk further on this, because there is some indication that some of this has to do with administrative interpretation that is a carryover from the past.

Bureaucracies, as you well know, have a tendency to defend themselves both when they are right and when they are wrong. We do not ask for things without a lot of thought. We operate here just as you did in the Finance Committee.

But the things we think we need to see, and particularly when we think there is a shortfall in performance within an administrative, an Executive Branch agency, or an independent agency, we need to pursue that, and we will.

So I would like to make it very clear on behalf of the committee that there may be things we feel we need when we think there is a shortfall in performance. We are not interested in getting into individual case situations.

But I do want to understand whether the work is being done properly or not. And if we think it is not, we need help in that area and we will persist. But to the extent we do need your help, I just want to be sure that we will have it in that regard.

Secretary BENTSEN. Let me say, Mr. Chairman, that I feel strongly about disclosure to the Congress. I always have.

To the limits of what the law allows me, I will be doing it.

The CHAIRMAN. Very good.

We will have some other questions for the record from some of the other members who were unable to be here but were otherwise obligated this morning.

I want to thank all of you.

Is there anybody else who has not commented that needs to put anything on the record at this point?

[No response.]

The CHAIRMAN. I do not see any hands coming up.

Let me thank you all.

The committee stands in recess.

[Whereupon, at 12:15 p.m., the committee was adjourned, subject to the Call of the Chair.]

[Prepared statements and additional material supplied for the record follow:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

MARCH 17, 1993

Mr. Chairman, I join you in welcoming Secretary of Treasury Bensten and the members of the RTC Thrift Depositor Protection Oversight Board to the committee. Mr. Secretary, you could have selected a better subject for your maiden voyage before this committee, but not a more difficult one.

Mr. Chairman, I am fairly certain that none of us are particularly pleased to be here today, yet we have a single objective we must achieve. The new Administration and the Congress must act responsibly to provide sufficient funding for the RTC to enable it to continue the resolution process without additional, costly delay and continuing uncertainty.

Mr. Chairman, I am no fan of the RTC. On a daily basis, I receive numerous complaints from my constituents about the RTC. These complaints cover every aspect of the RTC—from the bidding process, to the $35 an hour xeroxer, to the excessive legal fees . . . and I could go on.

I will not belabor the point that the RTC needs reform almost as much as it needs refinancing. And without management improvements, we will *never* complete the savings and loan cleanup from the 1980's or spare the taxpayer avoidable expense.

Mr. Secretary, I do not envy your task and I will support your efforts. I am inclined to support your funding request. This committee and the full Senate have acted responsibly on RTC funding requests in the past, and I am hopeful we can expedite action on the Administration's bill—here in committee and on the Senate floor. And I pledge my best efforts to work closely with the Chairman to sustain this bipartisan effort to bring this unfortunate chapter in our financial history to a close.

PREPARED STATEMENT BY SENATOR RICHARD SHELBY

Mr. Chairman, I am pleased that we have the opportunity this morning to hear from the administration its plans to conclude the work of the Resolution Trust Corporation. Secretary Bentsen, it is a pleasure to have you before the committee. The RTC will no doubt benefit from the wisdom of your experience on the hill. I would like to also extend a special welcome to Philip Jackson, a respected resident of my State of Alabama, and thank him for his service as a member of the Oversight Board.

Secretary Bentsen, I have read through your testimony and found it informative. I appreciate your emphasis on achieving greater efficiency at the RTC. The bureaucratic *in*efficiency with which the RTC has performed many functions has been troubling to me and a number of members of Congress.

Yet at this time, with the RTC beginning to wind down its operations, it is too late to radically restructure the RTC. Greater efficiency can only be achieved through changes in internal procedures.

In your testimony, you identify a number of areas where operations can be improved. While it is disappointing that these systems are not already in place, you are to be commended for working to see that these initiatives are taken at this time.

I would like to mention a couple of other areas in which I frequently hear complaints.

First is the affordable housing program. The intent of the affordable housing program is a good one. You state in your testimony that it has created almost 14,000 homeowners in less than two years. It is nice to see moderate income buyers benefit in some way from the savings and loan crisis that they as taxpayers have had to pay for.

My problem with the affordable housing program is that I have seen it used as an obstruction to disposing of assets. On several occasions in my State of Alabama, the RTC has had a property in inventory for several months, sometimes even a year or more. A buyer comes along and makes an offer on the property.

The RTC may make a counteroffer, the negotiation goes back and forth, and then all of a sudden, the RTC decides that it cannot accept the offer because the property was never marketed through the affordable housing program. The buyer will then have to wait ninety days for the marketing to expire. In all of the instances I am aware of, the buyer found another property to buy and walked away doing business with the RTC.

In one particular case, the property was a beachfront condominium. While the unit's price fell within the affordable housing program limit, the condo fees were almost certain to be out of reach of a qualified buyer. Nonetheless, the property was placed in the affordable housing program.

The affordable housing program was supposed to be a means of giving certain buyers first shot at a property. It was not supposed to be used as a delaying tactic to prolong the life of the RTC. I would encourage you and Secretary Altman to make sure that properties are marketed through the affordable housing program as soon as they go into the RTC's inventory. The use of the affordable housing program that I describe only makes the cost of resolution higher for all taxpayers. That is not the purpose of the affordable housing program.

I am also particularly interested in seeing that small businesses are given sufficient consideration in the contracting process. I hear a number of complaints from small firms that believe that contracting opportunities are reserved primarily for larger firms. Small businesses should share equally in the RTC work available.

As a final point, I will say that the RTC's success is determined by its people. I know there are excellent professionals involved in the cleanup process, certainly at the top levels. However, I am concerned over the lack of incentives in place for the RTC to complete its job. When the RTC shuts down, thousands of jobs will be lost. While we in Congress may know that these jobs were never intended to be permanent, the average RTC employee has no interest in seeing his position terminated.

Efficiency has been lacking at the RTC because employees understand that there is an inverse relationship between the efficiency with which they do their jobs and the length of their employment. I would encourage you to look for ways in which to provide incentives for RTC employees to do their jobs with maximum efficiency. I believe that a system of incentives could save taxpayers money in the long run.

I appreciate your being here and I have some questions for later.

PREPARED STATEMENT OF SENATOR PATTY MURRAY

Mr. Chairman, usually I thank you—and I do so sincerely—for holding hearings on important topics in this committee. Unfortunately, I cannot do so on this subject. My constituents are appalled by the size of the savings and loan crisis and how the RTC has been so poorly managed. I cannot say that I am happy to hear that the Administration might be asking for additional funding, especially in light of the recent press reports about abuse by contractors and executive bonuses.

Secretary Bentsen, I know that the S&L disaster and the RTC are not the fault of the Clinton Administration. I know that they are a portion of your inheritance from the previous Republican Administrations.

I am anxious to hear your testimony, Mr. Secretary. I hope that it will reassure me that the people of Washington would be well served by granting additional funds to the RTC.

QUESTION

Recently, the Associated Press reported that of the nearly $134 million in penalties levied in S&L plea bargains, less than one-half of one percent has been paid. Can you give me any insight into why this is the case? I suppose, it is logical that the people who were convicted cannot pay. Why shouldn't jail sentences be handed down? There is a perception across this country that some people are getting away with robbery.

What structural reforms are you proposing to ensure that future abuse of America's financial institutions is avoided?

STATEMENT OF THE HONORABLE LLOYD BENTSEN

CHAIRMAN, THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

WEDNESDAY, MARCH 17, 1993

Mr. Chairman, members of the committee: I am pleased to testify today on the Administration's objectives for the savings and loan cleanup and the funds that will be necessary to fulfill the government's deposit insurance commitment.

This is my first appearance before this committee as Secretary of the Treasury. Mr. Chairman, you and I have worked together for many years as colleagues, as I have with most of the members of this committee, and I look forward to continuing our relationship. And Senator D'Amato, I congratulate you on becoming ranking member of the committee. This committee has some new members, and I look forward to working with all of you in a truly bipartisan spirit.

With me today are Oversight Board members Alan Greenspan, Chairman of the Federal Reserve Board; Philip Jackson, Adjunct Professor at Birmingham Southern

College and former Governor of the Federal Reserve Board; Robert Larson, Chairman of Taubman Realty Group; Roger Altman, Deputy Secretary of the Treasury and interim CEO of the RTC; Jonathan Fiechter, Acting Director of the Office of Thrift Supervision; and Andrew Hove, Acting Chairman of the Federal Deposit Insurance Corporation. Also accompanying us is Peter Monroe, President of the Oversight Board. William Roelle, RTC Senior Vice President and Chairman of the RTC's Executive Committee, and Lamar Kelly, RTC Senior Vice President for Asset Management and Sales, are present to help respond to your questions.

We are here to begin the process of crafting legislation to fund the Resolution Trust Corporation and permit it to complete its portion of the savings and loan cleanup. This has been a bipartisan issue from the start. Just as one of President Bush's first proposals to Congress was a plan to deal with the savings and loan crisis, my first appearance before this committee demonstrates this Administration's commitment to funding the RTC and to closing this chapter of our country's financial history.

Mr. Chairman, let me state right at the start, that this Administration is committed to fulfilling our government's commitment to savings and loan depositors under the Federal deposit insurance program. There has been a lot of confusion about this program. It has been labelled a "bailout." That is dead wrong. This is a program for people—millions of Americans who, over the years, have placed their savings in insured institutions in confidence that the Government would honor its insurance pledge. Not a dollar has gone to "bail out" bankrupt S&Ls or to pay off their shareholders. The funds are to be used solely to protect depositors.

Let me also tell you that I know, from personal experience, that a vote to fund the RTC is a tough vote. It is a tough vote for you just as it was for me. But I also know that this is a vote for depositors, for the safety of our financial institutions, and that if we fail to meet this obligation, we will pay a far greater price, and deservedly so.

I also know that many of you cannot vote to fund the RTC unless dramatic improvements are made in its operations. I will tell you plainly, on the record, that we intend to make such improvements.

In August, 1989, this committee and the Congress responded to the need to defend our financial system by passing the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). That was a bipartisan effort, and, for all its troubles, it has worked.

On the day FIRREA passed, the thrift industry consisted of over 3,000 institutions, more than 260 of which were in conservatorship. It was losing more than $1 billion a year. Its return on assets was negative. Its deposit insurance fund was bankrupt.

Let me show you a few charts.

Pursuant to FIRREA, 21.8 million depositor accounts have been made whole by the Resolution Trust Corporation [See Chart I]. The size of the average account protected was $9,000. RTC has closed 654 insolvent savings and loan institutions, which is equal to 89 percent of the total of 737 institutions that have been seized [See Chart II]. The RTC has taken possession of about $438 billion of assets, and has sold or collected about $337 billion of that amount, at an average return of 92% of book value [See Chart III].

Under its affordable housing program RTC has closed sales of almost 14,000 homes to low- and moderate-income homeowners—enough to create a small city [See Chart IV]. In addition, the RTC has closed sales of 350 multifamily properties with 30,000 units, of which over 11,500 have been dedicated for occupancy by lower income, and very low income, families.

The Department of Justice has sent 685 individuals, including many thrift executives, directors and officers, to jail for crimes against the country and the taxpayer. While the record on court-ordered restitutions from criminals is not good, civil recoveries obtained by the RTC, FDIC and OTS now total more than $1 billion [See Chart V].

The Task Ahead

While much has been accomplished, much remains to be done. The task ahead consists of four parts: (1) protecting depositors, (2) selling assets at best possible prices, (3) ensuring that the RTC is run efficiently, and (4) closing down the RTC in a planned and orderly way, as soon as feasible.

Eighty-three insolvent institutions, with about 4.3 million depositor accounts, are now operating under the conservatorship of the RTC. RTC is obligated to operate them, at a daily loss to the taxpayer and in competition with the healthy thrifts and banks in their communities, until Congress votes funds to pay their depositors

and close them. And, as the Acting Director of the Office of Thrift Supervision can tell you, OTS will continue to transfer additional thrifts to the RTC for closure.

The existence of current and additional conservatorships means unnecessary extra costs to the taxpayer that must be stopped as quickly as possible by funding the RTC. The history of the savings and loan debacle shows us that refusing to provide funds to close insolvent thrifts simply means greater losses for the taxpayers.

Protecting the depositors in existing and new conservatorships is only one part of the job remaining to be done.

The second task, managing the sale of the remaining assets, is just as important. I said earlier that the RTC has achieved an impressive record in its asset sales to date. But the remaining assets of more than $100 billion, together with assets to be received from institutions placed in conservatorship before September 30, this year, consist substantially of the hardest-to-sell land and real property, and non-performing mortgages. We can limit the potential loss to the taxpayer if these assets are managed, marketed and sold carefully.

The third task relates to RTC management. We have an overriding responsibility to the taxpayers to change the way the RTC does business. We must ensure that the RTC is managed in the most efficient and responsible way according to the best management practice, under a carefully considered business plan. We must now take action to protect the public against needless expense in the RTC's management of its contractors, to prevent fraud and waste, and to correct deficiencies found by the RTC's auditors. And we must use the best available information systems to identify and track assets and provide RTC management with accurate, timely information.

And finally, we must plan for closing the RTC as soon as possible without impairing RTC operations, ensuring an orderly transition of RTC personnel and systems to the FDIC. I have asked Mr. Hove and RTC's new leadership to establish a joint FDIC/RTC task force both to be sure FDIC has sufficient resources to manage the Savings Association Insurance Fund, and to plan for the return of RTC personnel, and the transfer of its systems, to the FDIC.

Improving RTC Management

Let me turn to the matter of RTC's efficiency.

As Chairman of the Oversight Board I pledge to use the Board and its staff to improve RTC management practices in order to earn taxpayer trust in the RTC and to effect savings to reduce the deficit.

Mr. Casey has resigned as the CEO of the RTC, and we are very grateful to him for his leadership and for his service to the country in this difficult and complex job. The President has replaced him, on an interim basis, with Mr. Roger Altman, Deputy Secretary of the Treasury, under the Vacancies Act. Under the terms of that Act Mr. Altman will serve as long as necessary within the constraints of the Vacancies Act, or until the President can appoint a permanent RTC CEO. Mr. Altman has a number of other responsibilities but will provide leadership for the RTC during this transition period, and will begin to put in place as soon as possible the programs I will describe for you today.

To put these programs in the proper context, it is important to keep in mind that the RTC has been in existence for less than four years, has seized over 730 institutions, and taken possession of over $400 billion in assets. Any organization, public or private, that reaches this size so quickly is bound to have operations that need to be improved.

To demonstrate this Administration's dedication to improving RTC efficiency, I have asked the interim CEO to begin to implement the following administrative actions. These initiatives are intended to strengthen the RTC's management in a number of critical areas. They will take time to put in place, but we will begin them now [See Chart VI].

First, strengthen internal controls against waste, fraud, and abuse: RTC will conduct a thorough evaluation of all of its internal accounting and administrative control systems, identify the weaknesses, and develop ways to fix them. Let me explain.

Internal controls are the systems that an organization relies on for (1) reliable financial recording and reporting and (2) ensuring efficiency and preventing fraud, waste, and abuse in operations. Reports on the results of the evaluation, with a plan for correcting weaknesses, will be made to Congress, the President, the Oversight Board, OMB, and GAO as required by law. This action, perhaps more than any other, is the taxpayers' first line of defense against waste, fraud, and abuse in all RTC programs, including affordable housing. Had these systems been sufficiently strong, Western Storm and the HomeFed incident would not likely have occurred.

Second, respond to problems flagged by auditors: RTC will implement a system—such as is required under OMB guidelines for other government agencies—to provide prompt, systematic, and effective followup on the findings and recommendations contained in the reports issued by the GAO and RTC's own Inspector General. When audits uncover problems, this is the system relied upon to correct them so that they do not recur. RTC must not repeat its mistakes after the auditors have brought them to management's attention. A thorough audit followup system should assure that the recommendations of auditors receive prompt attention.

Third, prepare a comprehensive business plan for the balance of the cleanup: I have directed that the RTC prepare a comprehensive business plan for the balance of the cleanup. The plan will include RTC's strategy for the sale of its remaining assets, many of which are hard-to-sell real estate and non-performing loans. The Oversight Board will review the plan and strategy in an effort to maximize the return to the taxpayer from the sale of these assets.

Fourth, expand opportunities for minorities and women: I have asked the interim CEO to have the RTC officer with responsibility for minority and women's programs report directly to him, and I have asked that he develop ways to provide more opportunities for minority and women-owned businesses in the management and disposition of RTC assets. I have also asked that RTC make improved efforts to preserve contracting and asset acquisition opportunities for minorities, women, small businesses and small investors.

Fifth, improve RTC's Professional Liability Section: I have asked that the interim CEO review and recommend improvements in the organization and staffing of the RTC's Professional Liability Section (PLS). These are the RTC lawyers who pursue claims, on the taxpayers' behalf, against thrift managers and others who contributed to the losses through negligence or misconduct. We are committed to building a PLS that operates in a professional and competent manner subject to appropriate management review.

Sixth, improve management information systems: I have asked the interim CEO to take action to improve RTC's management information systems, so that RTC has complete information on its assets and that its management information needs are met.

Seventh, strengthen contractor systems and contractor oversight: I have asked that the RTC review and strengthen its contracting systems, and improve oversight of its private sector contractors. RTC has tens of thousands of contractors working on many types of assets. It must make every effort to ensure that the taxpayers' money is being spent for appropriate and timely services, and that the RTC is getting what it's paying for.

Eighth, appoint a Chief Financial Officer: Consistent with strong Congressional interest in establishing independent chief financial officers for all the agencies, I have asked that RTC appoint a Chief Financial Officer who does not have other operating responsibilities.

Finally, appoint an audit committee: I intend to appoint an audit committee of the Oversight Board to monitor and advise on RTC's improvement of its internal controls, to monitor its followup on the recommendations of its auditors, and to consider special audit and accounting issues as they arise.

In summary, the program I have outlined is very ambitious. Achieving results will take time and hard work. But we intend to place the RTC on a sound management footing and give renewed emphasis to one of its central objectives: maximizing savings to the taxpayer.

The final important task ahead is to put the RTC out of business as quickly as we can—perhaps well before December, 1996, the date contained in FIRREA.

Funds Needed

I have told you how this Administration plans to improve RTC operations to win taxpayer trust, and to win your trust. I now must ask you for prompt passage of the Thrift Depositor Protection Act of 1993, which I sent to the Speaker of the House and the President of the Senate yesterday. This bill provides an additional $45 billion to permit the RTC to resume its work of closing insolvent savings and loans and protecting their depositors, and to fund the Savings Association Insurance Fund (SAIF).

Let me review briefly the history of RTC funding [See Chart VII]. FIRREA, which was enacted on August 9, 1989, provided $50 billion for the RTC. In March, 1991, the RTC Funding Act provided another $30 billion. In December, 1991, the RTC Refinancing, Restructuring and Improvement Act provided another $25 billion, but this act prevented any use of these funds after April 1, 1992. Because of this restriction the RTC was able to use only $6.7 billion, bringing the total of RTC loss fund-

ing to $86.7 billion. Of this amount the RTC has retained a reserve of $2.3 billion, for emergency uses, from funds provided by FIRREA and the March Refunding Act.

As you know, Mr. Chairman, with your leadership the Senate last year passed a bill providing $43 billion for RTC. The House, however, defeated a measure that would have provided $18 billion. Thus the RTC has been without sufficient funds to resolve institutions for almost a year.

Our request for funds consists of two parts, $28 billion to fund the RTC and $17 billion to fund the SAIF. Passage of our combined request, when added to the $87 billion already provided, would bring the total of all RTC/SAIF funding up to $132 billion for the 1989–1998 period. The table in Attachment I gives a more detailed picture of these estimates.

I should note that if RTC does not use all the funds provided to it, the unused portion can be transferred to SAIF. And of course, if the full amount provided is not needed, it will not be drawn from the Treasury.

How does this compare with previous projections? The last Administration estimated that the cost of the cleanup would fall in a range of $100 billion to $160 billion. At its appearance before this committee in July last year, the Oversight Board estimated that the cost could fall close to the middle of the range, or about $130 billion. Our request today for $45 billion would bring total RTC/SAIF funding to an amount close to that estimated by the Board last year.

Funding the SAIF

Our request goes beyond the Board's request last year because it includes an amount to cover losses of SAIF. Let me explain why this is necessary. Until this year the savings and loan industry's premium assessments have been used to help defray the cost of the 1988 deals. In January, this year, the industry's net assessments began to flow to the SAIF. Thus, by October 1, this year, the SAIF will have about $1.1 billion in reserves.

Foreseeing that industry contributions would be insufficient to permit SAIF to take over after the RTC completed its work, FIRREA authorized further provision of funds by Congress to properly capitalize SAIF. Consistent with the concept in FIRREA that SAIF will need public funding, we are recommending that SAIF be provided up to $17 billion to be used to cover future industry losses. This should allow SAIF to accumulate an expected $1.2 billion to $1.4 billion of annual net assessment income so as to reach over $7 billion in 1998 as required by FIRREA.

Mr. Chairman, one of the questions I have most frequently been asked is, will $45 billion be enough to complete the cleanup? In candor, I must say that no one can know for certain because no one can foresee with certainty trends in the economy, in interest rates, and in regional real estate markets out until 1998. But we have made a very earnest attempt to estimate the costs. We hope that we will use less than $45 billion, but we believe our request is sufficient to complete the job, once and for all, so that we will not come back to you to ask again for funds.

Why Funds Are Needed

It has been suggested that if the RTC has been able to operate since April last year without funding, there is no need to vote such funds now.

This may be an appealing idea, but it is at best misleading.

RTC needs funds to close the existing 83 conservatorships and to protect the depositors in those institutions. Failure to close the conservatorships means that these insolvent institutions will continue to operate in the private sector at a further, unnecessary, loss to the taxpayer.

This is because, for practical purposes, insured deposits at conservatorships are federal government borrowings. When compared with the cost of direct Treasury borrowings, insured deposits are an expensive way for the government to borrow money. If there were to be another delay in funding of one year, the additional cost to the taxpayer, just for existing conservatorships, would be approximately $1 billion.

This estimate does not take into account additional conservatorships to be transferred to RTC, nor the adverse effects on other thrifts of competing with conservatorships, nor the cost of keeping RTC's conservatorship and resolution programs in place longer than otherwise necessary.

Losses due to delays in funding until this time are estimated at about $1.1 billion.

This financial hemorrhage must not be allowed to continue. Enough has been lost already. It is unfair to the taxpayers, it places an unnecessary drain on our financial system, and it prevents the RTC from completing its work and closing up shop. Funding must be provided: inevitably, the depositors must be paid.

Conclusion

Mr. Chairman, I said that there are four major remaining tasks to accomplish before the savings and loan cleanup can be completed: protect depositors in existing and additional conservatorships, sell remaining assets, improve RTC management efficiency, and close the RTC quickly, in an orderly way.

I have also indicated that this Administration is determined that improving RTC management efficiency will be a top priority and a continuing objective. I have spelled out a number of ways in which we will accomplish this objective through administrative actions and Oversight Board review. These will take time to implement fully, but we are committed to the effort. Our purpose is to complete the cleanup quickly, at least cost, with maximum returns to the taxpayers on assets sales. We intend to nominate a new CEO who shares our determination and is committed to achieve each of these objectives and who will effect an orderly termination of the RTC.

We ask that this committee and the Congress respond with swift approval of the funding request contained in the Thrift Depositor Protection Act. With the provision of these funds the remaining insolvent thrifts can be resolved, their depositors protected, and, finally, the Resolution Trust Corporation can be closed.

I do not want to conclude without thanking you, Chairman Riegle, for your willingness to hold these hearings and to move legislation. You have made it clear from the beginning of the session that you and your committee were ready to go to work on this issue, and we appreciate that. As I said at the outset we are ready to work with you, Senator D'Amato, and all the members of this committee to write responsible legislation that will let us bring an end to the savings and loan cleanup in the same bipartisan spirit with which we began it in FIRREA.

This concludes my prepared statement. Responses to the questions required by FIRREA to be addressed at these appearances are contained in Attachment II to the statement.

Attachment I

RTC/SAIF Estimated Loss Fund Usage

As of March 10, 1993

	A	B # of Cases	C Gross Assets*	D Point Estimate of Loss	E Likely High Estimated Loss	F Add. Funds Needed for High Estimated Loss
1	RTC Resolutions (As of March 5, 1993)	654	$337	$85	$91	$4
2	RTC Conservatorships and Probable Cases†	118	$105	$19	$21	$21
3	**Total RTC Probable Cases**	**772**	**$442**	**$104**	**$112**	**$25**
4	RTC or SAIF — Likely to Fail within the next 6–12 months	52	$19	$2	$3	$3
5	SAIF — Possible SAIF Cases after September 30, 1993**	105	$93	$13	$17	$17
6	**Total Cases — 1989–1998**	**929**	**$554**	**$119**	**$132**	**$45**

($ Billions)

Note. The "additional funds needed" numbers take into account the $87 billion already provided to the RTC to date. The point estimate assumes a midrange loss rate averaging 24% of assets. The likely high estimated loss is derived using higher loss rates averaging 28%.

* Asset data for resolved and conservatorships are as of the quarter prior to takeover. Data for remaining caseload are as of December 31, 1992.

** The 105 institutions listed here have $66 billion in assets and are possible cases through 1995. Since additional failures are possible in 1996–1998, the gross assets were increased to $93 billion to include additional failures of 1% of the assets of the thrift industry for each year in 1996, 1997, and 1998.

† As of March 5, 1993, there were 83 thrifts in RTC conservatorships with $74 billion in assets at takeover. There are 35 additional thrifts with $31 billion in assets listed by OTS as probable RTC cases before October 1, 1993.

Requirements Established in FIRREA for Semi-Annual Appearances	Comments
I. Report on the progress made during the 6-month period covered by the semi-annual report in resolving institutions insured by the FSLIC prior to FIRREA, and for which a conservator or receiver has been appointed after 12/31/88 and before 10/1/93. These institutions are referenced below as those described in subsection (b)(3)(A).	During the six month period, the RTC resolved 12 institutions with \$15 billion of assets. On September 30, 1992 there were 69 conservatorships with \$34 billion of assets waiting for resolution. During the six month period, conservatorship and receivership assets decreased \$8 0 billion in book value.
II. Provide an estimate of the short term and long term cost to the United States Government of obligations issued or incurred during such period.	We interpret this requirement to address RTC short term borrowings from the Federal Financing Bank ("FFB") and long-term borrowings from Resolution Funding Corporation ("REFCORP"). During the reporting period, the RTC decreased issued and outstanding obligations from \$57 to \$47 billion in the form of short term working capital borrowings from the FFB. Approximately \$1 0 billion in interest expenses were incurred in connection with the issuance of these obligations during such period. Repayment of these obligations will come from currently appropriated loss funds and RTC recoveries from receiverships. We expect that proceeds from the disposition of RTC assets will be sufficient to repay these short term obligations. REFCORP issued its last obligation in January, 1991. The total amount outstanding is the full \$30 billion of obligations authorized by FIRREA, with average maturities of 33 years and average yield of 8 76%. Total interest on REFCORP obligations is expected to be a nominal \$87 9 billion. The Treasury share of this interest is expected to be a nominal \$78 billion.
III. Report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) and the impact such sales are having on the local markets in which such assets are located.	As of September 30, 1992, the RTC had sold and collected approximately \$309 billion (book value) of assets which was 74% of assets seized by that date. The proceeds from these asset reductions totaled \$287 billion. To date, there is no evidence that RTC sales have had an adverse impact on local real estate markets. A survey conducted by RTC's National Advisory Board concluded that the RTC does not appear to affect real estate prices, but that RTC activities may create a "psychological overhang" in the markets, causing local buyers to delay decisions. This observation is consistent with independent reports. The RTC will continue however to monitor the impact of its sales activity in local markets through the input of its Regional Advisory Boards.

Requirements Established in FIRREA for Semi-Annual Appearances	Comments
IV. Describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation	We have interpreted this requirement to address the assets of receiverships and conservatorships which are under the management of the RTC The total amount paid to private contractors during the April September period was $1,208 million, of which $764 million represents fees paid under receivership management contracts and $125 2 million represents issuance costs incurred in connection with the securitization program After the appointment of RTC as conservator, association employees continue to perform asset management functions under the supervision of the RTC Managing Agent These staff are already supplemented by outside contractors hired and paid for by the institution for services for which the institution would typically contract in the normal course of business Accordingly, we have excluded such costs for the purposes of this calculation
V. Provide and estimate of income of the Corporation from assets acquired by the Corporation	In its corporation capacity, the RTC's only substantial source of "income" is interest on advances made by the Corporation to conservatorships and receiverships The RTC accrued $292 million of interest income on advances and loans to conservatorships and receiverships in the six months ended September 30, 1992 Dividends are not included in income because they are a reduction in RTC's claims against the assets of the receiverships, thus a return of capital, and not income However, dividends received by the RTC during the period totalled $14 6 billion
VI. Provide an assessment of any potential source of additional funds for the Corporation	The only remaining sources of additional funds to the Corporation are the secured borrowings for working capital from the FFB and the $5 billion line of credit from the Treasury provided in FIRREA Unused loss funds total $2 3 billion which are being held for both contingencies and emergencies There are no other funds currently available to the RTC
VII. Provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period	The estimate of the total resolution cost to be borne by the RTC in connection with those institutions described in subsection (b)(3)(A) is projected to be up to $115 billion The RTC recognized approximately $84 billion for estimated losses from inception through September 30, 1992

OFFICE OF
INSPECTOR
GENERAL

RESOLUTION TRUST
CORPORATION

March 24, 1993

The Honorable Donald W. Riegle, Jr.
Chairman, Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510-6075

Dear Chairman Riegle:

Secretary Bentsen requested we send you the enclosed information for the hearing record of the Senate Banking, Housing, and Urban Affairs Committee's March 17, 1993, hearing on the Semi-Annual Review of the Resolution Trust Corporation. The information pertains to 15 questions either specifically directed to the RTC IG or involving the results of completed or ongoing IG audits and investigations.

We also provided a copy of this information to the Thrift Depositor Protection Oversight Board yesterday for their use in responding to your March 19, 1993, letter requesting answers to questions for the March 17, 1993, hearing record. If you have any questions regarding the enclosed information, please call me at (703) 908-7800.

Sincerely yours,

John J. Adair

John J. Adair
Inspector General

Enclosure

1735 N. Lynn Street ■ Rosslyn, VA 22209
801 17th Street, NW ■ Washington, DC 20434-0001

Asset Management

In March 1991, the IG's semi-annual report specified that as of that time, the IG had seven audits ongoing in the asset management area, addressing three major issues among others. Please describe the extent to which, during RTC's first three and a half years of operations:

Q.1. The formulas and procedures used by RTC to estimate asset values during conservatorship and receivership were adequate, and whether RTC field offices applied those formulas and procedures consistently.

A.1. The OIG's audit report, *Asset Valuation Methods and the Appraisal Review Process,* dated April 28, 1992, addressed whether RTC and its representatives were complying with applicable asset valuation policies and procedures, and evaluated overall consistency and effectiveness of RTC's valuation procedures and appraisal review process. The audit focused on the asset valuation review (AVR) process, estimated recovery value (ERV) calculations, and the appraisal review process.

The AVR is a significant factor in the determination of the least costly method of resolving failed institutions. Because of inadequate supporting documentation, the OIG was unable to determine whether the AVRs were performed in accordance with all requirements of the AVR methodology. In addition, it was unable to ascertain the extent of RTC review of AVR contractors' work because the AVR working papers contained little evidence of RTC oversight.

The ERV of assets being managed by private sector entities is a crucial benchmark for determining an asset management contractor's compensation. The OIG's audit indicated that regions and consolidated offices were calculating ERVs inconsistently. Further, in some cases, the OIG was unable to independently verify ERV calculations or locate supporting documentation and found that ERV calculations were not always reviewed by RTC.

RTC established the appraisal review process as an internal control to ensure that RTC and its representatives can base their asset decisions on reasonable, quality appraisals. Poor quality appraisals can provide inaccurate asset information and result in improper marketing of a property. The OIG found that the appraisal review process was not operating in the most effective manner possible. RTC staff could not fulfill all of their responsibilities. In addition, using staff review appraisers in a strictly advisory capacity for significant liquidation decisions was an inefficient use of resources if the review appraiser's advice was inconsequential or ignored.

As a result of its findings, the OIG made recommendations to improve documentation of asset valuations and clearly document the amount of oversight provided. To improve the appraisal review process, the OIG recommended that RTC require that results of appraisal reviews be provided to the appropriate delegated authority for the sale of real estate owned properties and provide additional guidance to the staff review appraisers.

RTC generally agreed with the OIG findings, and as of March 15, 1993, had implemented corrective actions to address all but two of its recommendations.

In the OIG's audit report, *RTC's First Negotiated Transaction Under the Widely Marketed Program,* dated September 9, 1992, it reported that RTC's "derived investment value" (DIV) methodology used in the transaction was reasonable. The DIV is a net present value of the cash flow through disposition of an asset. Standard assumptions include timing and amounts of future cash flows, and applicable capitalization and discount rates reflective of investor return requirements for the type of asset. The DIV was used for determining the prices of properties sold to Patriot American Investors, Inc. as part of this transaction. The OIG reviewed the methodology and concluded that it was thorough and well-developed and should result in prices that approximate market value.

Q.2. The effectiveness of RTC's asset management contractor oversight program, and whether controls established over reimbursements to asset managers were adequate to prevent and detect fraud, waste, and abuse.

A.2. RTC relies on the private sector to manage, market, and dispose of most of the nonperforming assets under its control. RTC developed the Standard Asset Management and Disposition Agreements (SAMDA) for this purpose. When the OIG conducted its audit work on RTC's Asset Manager Contractor Oversight Program, there were approximately 145 active SAMDAs nationwide covering assets having a book value of about $28.3 billion and an estimated recovery value of about $17.1 billion. RTC expected to pay asset management contractors (AMC) nearly $500 million to manage and dispose of these assets.

The SAMDA requires AMCs and RTC to establish two bank accounts—an operating account to meet asset-related expenses, such as management fees, and a receipt account to deposit revenues, such as asset sale proceeds. Based on monthly reports from AMCs, RTC replenishes the operating accounts and transfers amounts in the receipt accounts to its Federal Home Loan Bank (FHLB) account in Chicago, a process commonly referred to as "sweeping."

The OIG reviewed all four of RTC's regional offices and nine consolidated offices to evaluate (1) the AMC oversight program with respect to cost reimbursement and (2) RTC's effectiveness in managing cash in both the operating and receipts accounts established by AMCs.

In its audit report, *Asset Management Contractor Oversight Program,* dated July 7, 1992, the OIG reported that RTC's cash management practices were preventing it from earning millions of dollars in interest income. During the period covered by its audit, consolidated office personnel had not (1) ensured that all operating and receipt accounts earned interest, (2) transferred funds from AMC receipt accounts to RTC receivership accounts at the FHLB in a timely manner, and (3) monitored operating accounts for balances in excess of established needs and reduced those balances where necessary.

The OIG estimated that RTC could lose about $14 million in interest income over the normal 3-year life of the 145 SAMDA contracts in effect at September 30, 1991, if cash management practices were not improved. However, if the OIG's recommendations were implemented effective June 1, 1992, RTC could earn about $8

million in interest income over the remaining lives of the 145 contracts. Also, additional interest income could be earned on those SAMDAs awarded after September 30, 1991, that were not included in the OIG's analyses. Finally, inconsistencies existed among offices regarding the scope and depth by which RTC personnel verified disbursements by AMCs, conducted on-site performance reviews, and monitored disbursements against approved budgets.

The OIG's report recommended immediate actions to achieve the savings it identified. The OIG recommended that RTC (1) develop uniform procedures for sweeping receipt accounts on a timely basis; (2) enforce requirements for AMCs to establish interest-bearing operating and receipt accounts; and (3) instruct oversight managers to closely monitor account balances and projected monthly expenses and, when appropriate, reduce account balances to justified levels. Management has taken appropriate corrective action to address all of the OIG's recommendations.

Other audits and investigations have illustrated the continuing internal control problems and systemic weaknesses in RTC's asset management and disposition activities. For example,

- The OIG's audit report, *RTC's Management of the DeBordieu Colony Project,* dated July 2, 1992, noted that (1) loan funds RTC provided the project were not properly used and accounted for; (2) project revenues were not properly remitted to RTC; and (3) requested audits, while incomplete, were not properly used by RTC to establish a negotiating position in legal settlements. Because RTC's asset managers and credit specialists did not monitor the actions of the project owners and did not ensure that the owners complied with the terms of the contractual agreements, approximately $1.1 million in funds advanced to the project were either used improperly by the DeBordieu owners or were not adequately supported. Also, $2 million in revenues from insurance proceeds, homeowner assessments, membership contributions, and lot sales were not accounted for and properly remitted to RTC. Finally, absent effective monitoring, RTC did not know the magnitude of funds used improperly or whether all required proceeds had been received before final settlement of this asset.
- A recently completed audit on asset management and disposition activities in RTC's Western Region found that RTC's Coastal Office has paid or will have to pay about $1.8 million in disposition fees to asset managers for assets they did not even sell. Specifically, organizational units within the Coastal Office contracted for duplicative disposition services on the same assets at about the same time. Coastal's Real Estate Owned (REO) Department placed eight assets in a SAMDA even though an RTC managing agent had advised the Coastal Office that the assets were being sold by a conservatorship's staff. As a result, RTC paid $308,000 in unnecessary disposition fees to the SAMDA contractor to which they were erroneously assigned. In addition, the REO Department placed 71 assets into SAMDAs at roughly the same time the Asset Marketing Department placed the identical assets into a sealed bid sales initiative. When assets are withdrawn from SAMDAs for a different marketing initiative, the contractors are still entitled to the contractual disposition fees. Thus,

RTC will incur an estimated $1.5 million in unnecessary disposition fees on the 71 assets.

Q.3. **(a)** The efficiency and effectiveness of RTC's carrying out of its delegations of authority for asset management and disposition decisions. **(b)** In each of the above areas, please quantify the total cost to the government to date as a consequence of any management or control inadequacies so identified.

A.3. **(a)** The OIG completed a survey of RTC's delegations of authority guidelines relating to assets in January 1992. Its objectives were to determine whether designated dollar thresholds in the delegations of authority guidelines allow for timely decisions, and whether consolidated, regional, and headquarters staff are following delegations of authority guidelines established by the former RTC Board of Directors; and to evaluate the overall effectiveness of the delegations of authority guidelines for the management and disposition of assets.

For the time period of the OIG's review, case memorandums were to be prepared for all transactions involving assets with a book value greater than $25,000. The OIG found that 90 of the 98 cases in its sample were approved under the proper delegation of authority and all those that required it had proper legal concurrence. However, the specific delegation of authority was either not cited or was incorrectly cited in 18 cases and the documentation was lacking for 22 cases. In addition, 23 cases took more than 30 days from case preparation to case approval.

The OIG also found that actual delegations of authority guidelines require numerous interpretations and clarifications, which were not effectively disseminated. Also, RTC staff appointed to serve on two committees RTC established to act on and approve cases rarely attended committee meetings. In addition, in some instances, case write-ups were presented at or just shortly before committee meetings, giving committee members little time to review and familarize themselves with the case.

As a result of its findings, the OIG made several recommendations to improve delegations of authority guidelines and ensure that delegations are effectively implemented as intended. Management has reported to the OIG that all of the recommendations have been implemented.

(b) Answer A.1 of the Effectiveness of RTC IG Operations and Miscellaneous section provides cost savings to RTC as a result of the OIG's audits and investigations, including those resulting from management or control inadequacies in asset management and disposition activities.

In addition, audits of 32 asset management and disposition contractors performed by independent public accountants (IPAs) under contract to RTC's Office of Contractor Oversight and Surveillance found instances of noncompliance with contract provisions, overpayments, or other irregularities amounting to $4.86 million in questioned costs and funds put to better use. The OIG has not verified the propriety of all of these questioned costs. However, the quality of these IPA audits are subject to a continuing program of independent OIG oversight. More effective oversight and controls

by RTC could have helped prevent the irregularities and questioned costs disclosed in the IPA reports.

CONFLICTS OF INTEREST

In March 1991, the IG office of the RTC stated that "many of our yet-to-be completed cases" in the contracting area center on alleged conflicts of interest by RTC personnel in awarding contracts, including alleged attempts to influence contract awards, such as offers and/or receipts of gratuities.

Q.4. During RTC's first three and a half years of operation, how many total complaints or allegations did the IG receive pertaining to alleged conflicts of interest involving RTC personnel?

A.4. The OIG received 66 conflict of interest allegations involving contracting.

Q.5. How many cases were opened on the basis of such complaints and allegations?

A.5. The OIG opened a total of 50 cases following receipt of the allegations. The other 16 allegations were closed after initial review determined the allegations were non-specific or unsupported.

Q.6. How many cases were resolved and how many remain open? Of those closed, please specify the disposition of each case.

A.6. A total of 27 cases were resolved and 23 remain open as of March 23, 1993. Of the 27 resolved (closed) cases,

- Eighteen cases were closed as No Action Warranted (based on management's review of the investigation results), or because the allegation was not substantiated.
- The remaining nine cases resulted in the termination of seven employees, four letters of reprimand or caution, one non-renewal of an employee's contract, and four employees reimbursed RTC a total of $185 for meals provided by a contractor.

Also, two improperly awarded contracts were canceled by RTC at a savings of $1.9 million.

EFFECTIVENESS OF RTC IG OPERATIONS AND MISCELLANEOUS

Q.1. What is the total amount of taxpayer money saved at RTC to date as a consequence of the RTC IG office's efforts? Please describe the basis for this figure.

A.1. The following tables present questioned costs, recommendations for funds to be put to better use, monetary recoveries, and cost efficiencies that have resulted from OIG audits and investigations between October 1, 1990 and March 23, 1993. With the exception of dollar amounts provided for the period October 1, 1992 to March 23, 1993, this information was included in previous OIG *Semiannual Reports to the Congress.*

The potential savings were calculated in accordance with the IG Act, as amended, which requires that the monetary value of audit recommendations be categorized as either "recommendations that funds be put to better use" or "questioned costs."

The term "recommendation that funds be put to better use" means a recommendation that funds could be used more efficiently

if management of an establishment took actions to implement and complete the recommendation.

The term "questioned cost" means a cost that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

With regard to investigative recoveries, the term "cost efficiencies" means those savings that result from investigative findings that preclude the agency from unnecessarily expending funds, such as the cancellation of contracts that were awarded as the result of contracting irregularities.

The term "monetary recoveries" refers to (1) dollars recovered during the course of an investigation, (2) court ordered fines, penalties, and restitutions, and (3) out-of-court settlements.

Office of Audit
Cumulative Statistics through March 23, 1993
(Dollar Amounts in Thousands)

Semiannual Report Period	Reports Issued	Questioned Costs	Funds Put to Better Use
October 1, 1990 to March 31, 1991	7	- 0 -	- 0 -
April 1, 1991 to September 30, 1991	14	- 0 -	$36,249*
October 1, 1991 to March 31, 1992	15	$1,189	$934
April 1, 1992 to September 30, 1992	23	$3,504	$4,165,463
October 1, 1992 to March 23, 1993	19	$500	$72,000
TOTALS	59	$5,193	$4,274,646

* Does not include $1.96 billion in funds made available to RTC if it could obtain the release of and sell excess collateral for Federal Home Loan Bank Advances we found were over collateralized by $2.3 billion as of 1/31/91. RTC took actions responsive to this recommendation.

Office of Investigation
Cumulative Statistics through March 23, 1993
(Dollar Amounts in Thousands)

Semiannual Report Period	Monetary Recoveries	Cost Efficiencies
October 1, 1990 to March 31, 1991	- 0 -	- 0 -
April 1, 1991 to September 30, 1991	- 0 -	- 0 -
October 1, 1991 to March 31, 1992	$281	- 0 -
April 1, 1992 to September 30, 1992	$1,979	$3,464
October 1, 1992 to March 23, 1993	$1,531	- 0 -
TOTALS	$3,791	$3,464

The following listing shows, by RTC subject area, a summary of reports with recommendations for potential savings.

Contracting

Controls Over Payments to Contractors (ARM91–010), 6/20/91. As part of an audit of the Asset Manager System (AMS), the OIG reviewed the payment for development of the AMS conceptual plan. The OIG found that RTC had made a $149,000 duplicate payment to the contractor that developed the plan. After being notified of the error by contractor representatives, RTC took almost 8 weeks to recover the funds.

Western Region's Asset Stratification and Reconciliation Project (A92–007), 2/24/92. The OIG reviewed the way RTC's Western Region contracted for the Asset Stratification and Reconciliation Project. Although the region originally estimated that the project would cost $20 million to complete, regional management did not perform adequate up-front planning or establish timely and sufficient oversight controls before beginning the project. In addition, the region did not competitively award the contract or protect RTC's interest by negotiating a reasonable price for the required services and establishing adequate contract specifications. The region also exceeded its delegations of authority in contracting for the project. Further, the region's oversight of the project was insufficient. As a result of these problems, the project experienced delays and performance problems, which caused RTC to inefficiently use funds. RTC incurred questioned costs of about $1.2 million in administrative fees paid to the contractor. The Corporation realized approximately $934,000 in cost savings from renegotiating contract rates.

Desk Review of Thrift Resolution Billing, Federal Savings Bank, F.A., Arlington, Texas (ARM 92–003), 4/29/92. The OIG reviewed a claim by Coopers and Lybrand to RTC for resolution services at Federal Savings Bank, F.A., Arlington, Texas. The OIG questioned $44,901 of the $131,890 claimed. Of those costs, $12,534 were either unsupported, exceeded agreed upon billing rates, or were nonreimbursable per the contract terms, and $32,367 were improper labor charges for employees who worked unrealistic schedules, charged hours after the closing date, or were not listed in the contractor's proposed staffing chart.

RTC's Small Business Administration (SBA) 8(a) Pilot Program (A92–019), 6/9/92. The OIG reviewed RTC's Small Business Administration Program, which was established to provide opportunities for expeditious contracting and help meet the requirements for minority contracting. The OIG found that RTC allowed an SBA 8(a) contractor to perform services even though the authorizing official did not have proper delegated authority and there was no contract in place. We further found that RTC was not preparing cost estimates for work to be performed and then negotiating costs with vendors. In addition, RTC did not comply with established selection criteria and did not ensure compliance with contracting policy that firms be considered based on evidence that prices proposed are fair, reasonable, and commensurate with prices charged by other 8(a) firms for similar services. The OIG made recommendations to ensure that administrative controls are adhered to during the selec-

tion and award of contracts to SBA 8(a) participants and that services are provided at fair and reasonable prices. The OIG also recommended action to recover $6,348 of unallowable costs paid to one contractor.

Award and Administration of Appraisal Contracts (A92–020), 6/26/92. The OIG reviewed the East Region's award and administration of appraisal contracts and found that the East Regional Office receiverships and conservatorships did not always follow established contracting and appraisal requirements. Specifically, the OIG found cases where (1) important documentation was not available in contract files, (2) unregistered contractors were selected by contract specialists, (3) required appraisal reviews were not documented as being completed or were not performed by senior appraisers, (4) required second appraisals were not obtained by asset specialists, and (5) a contractor produced an unacceptable appraisal but was paid in full by RTC. The OIG made recommendations to implement controls over documentation, reviews, and appraisals. The OIG also recommended the recovery of a $3,000 fee for an unacceptable appraisal contract.

Preaward Audit of Power Computing Company, (A92–025), 7/17/92. The OIG conducted a preaward audit of Power Computing Company (PCC) at the request of the Vice President, Department of Administration and Corporate Relations, to assist RTC contracting personnel in negotiating rates with PCC. The OIG evaluated PCC's pricing practices for services provided to RTC as compared to other customers and found that although RTC was PCC's largest revenue producer, RTC was paying significantly higher rates than other PCC customers that were purchasing similar services. The OIG recommended that RTC define its future requirements and need for continued use of PCC as a service provider and seek to obtain rates that were comparable to the best rates PCC offered similar customers. The OIG estimated that RTC could save approximately $7,463,000 by renegotiating rates.

Legal Fees Paid to Cravath, Swaine, & Moore (A92–034), 9/28/92. The OIG reviewed the legal fees paid to Cravath, Swaine, & Moore (Cravath) to determine whether the services rendered and the costs Cravath charged were fair and reasonable, adequately supported, and within the terms of the contract. Cravath generally verified through supporting documentation that expenses billed to FDIC/RTC were accurate and related to the Drexel/Milken litigation. The OIG questioned $272,000 in Cravath claims for fees and expenses based on selective tests of such fees and expenses.

Asset Management

RTC's Management of the DeBordieu Colony Project (A92–021), 7/2/92. RTC became conservator for Peoples Heritage Federal Savings and Loan Association, Salina, Kansas, on August 10, 1989. As conservator, RTC was responsible for managing the institution's assets, including the loans Peoples Heritage made to DeBordieu Colony, a South Carolina development project. DeBordieu is an ocean front, residential community resort. The RTC Oversight Board requested the OIG to review an allegation that RTC's actions forced the DeBordieu project into bankruptcy. The OIG found that RTC did not force DeBordieu into bankruptcy; the project was in finan-

cial trouble before August 1989, when RTC took over as conservator. Nonetheless, the OIG found that RTC needs to improve its management of assets like DeBordieu. RTC's asset managers and credit specialists did not monitor the actions of the project owners and did not ensure that the owners met contractual agreements. As a result, $1.1 million in funds advanced to the project were either used improperly by the DeBordieu owners or were not adequately supported. Also, RTC did not ensure that $2 million in revenues from insurance proceeds, homeowner assessments, membership contributions, and lot sales were accounted for and properly remitted to RTC. The OIG made recommendations to improve RTC policy and procedures related to accounting for funds and managing assets and to pursue options to collect funds improperly used or not remitted to RTC.

Asset Management Contractor Oversight Program (A92–023), July 7, 1992. The OIG reviewed all four of RTC's regional offices and nine consolidated offices to evaluate (1) the asset management contractor (AMC) oversight program with respect to AMC cost reimbursement and (2) RTC's effectiveness in managing cash in both the operating and receipt accounts established by AMCs. The OIG found that RTC's cash management practices were preventing it from earning millions of dollars in interest income. During the period covered by the audit, consolidated office personnel had not (1) ensured that all operating and receipt accounts earned interest, (2) transferred funds from AMC receipt accounts to RTC receivership accounts at the Federal Home Loan Bank in a timely manner, and (3) monitored operating accounts for balances in excess of established needs and reduced those balances where necessary. We estimated that RTC could lose about $14 million in interest income over the normal 3-year life of the 145 SAMDA contracts in effect at September 30, 1991, if cash management practices were not improved. However, if our recommendations were implemented effective June 1, 1992, RTC could earn about $8 million in interest income over the remaining lives of the 145 contracts. Also additional income could be earned on contracts awarded after September 30, 1992.

Information Management Systems

Management of RTC's Contract With Power Computing Company Can Be Improved (ARM91–009), 5/29/91. The OIG reviewed RTC's Interim Contracting Activity Reporting System, which is supported through a non-competitive contract with Power Computing Company (PCC). The OIG found that the contract with PCC had been expanded beyond its original scope without adequate justification. After the initial contract expired, RTC proposed an 18-month, $7.8 million contract with PCC to provide additional services. However, as a result of discussions with the OIG on the scope of the work required, RTC agreed to award a 9-month, $3.7 million contract to PCC, a difference of $4.1 million. Also, RTC was continuing to expand the contract while it was also preparing a solicitation to competitively procure the services PCC had been providing.

Development of RTC's Asset Inventory Facility (A92–024), July 13, 1992. The OIG performed an audit of the North Central Region's Asset Inventory Facility (AIF), a management information

system designed by the North Central Region for managing, tracking, and reporting on receivership assets. The audit found that RTC did not consistently follow its overall information systems plan and duplicated information and process of other planned and developing systems in its development of AIF. In awarding a non-competitive contract to develop and set up a regional AIF, the North Central Regional Office did not follow RTC's contracting procedures, obligated RTC to pay an unspecified amount, and exceeded its contracting authority. The North Central Region also made $12,037 in overpayments to the contractor which we recommended be recovered. We made other recommendations designed to ensure timely and complete communication of management decisions and improve the process for reviewing invoices and approving payments.

Receiverships

Receivership Operations at First Savings and Loan, Waco, Texas (A93–001), 10/23/92. The OIG reviewed the operations at First Savings and Loan, Waco, Texas, a receivership that was under the management of the Metroplex Consolidated Office (MCO) at the time of the review and is now managed by the Dallas Office. The OIG found the loan servicer, IMCO Realty Services, Inc., did not remit payments totaling $267,355 for 2 participation loan pools of the 10 loans/pools tested and did not correctly calculate participation loan pool service fees. The OIG also identified overpayments of $175,000 to two receiverships, service fees of $42,500 included in payments for loans put back to another receivership, and salary payments of $15,000 that had been paid inappropriately.

Conservatorship Operations

RTC's Management and Oversight of Advances and Property Management Contracts at FarWest Savings and Loan Association (A93–017), 3/17/93. The OIG audited RTC's management and oversight of advances and property management contracts at the FarWest Savings and Loan Association (FarWest) conservatorship in Newport Beach, California. The OIG found that RTC's oversight manager directed FarWest to accept a $72 million advance that the conservatorship did not request or need. This advance represents funds that could have been put to better use on other RTC activities. The advance also resulted in FarWest incurring $720,000 in unnecessary interest expense. Further, RTC conservatorship managers allowed FarWest staff to continue the property management procedures that FarWest used before conservatorship even though the procedures did not ensure adequate control over revenues and expenses.

Funding and Finance

Alternative Sources Available for Repaying FHL Bank Advances (A91–005), July 3, 1991. The OIG evaluated the cost-effectiveness of alternatives to using RTC advances for repaying Federal Home Loan Bank (FHL Bank) advances. The OIG found that as of January 31, 1991, FHL Bank advances were over collateralized by $2.3 billion. Releasing and selling excess collateral could make it possible for some institutions to repay their entire outstanding FHL

Bank advances without any additional funding from RTC. The OIG estimated that the sale of the $2.3 billion in excess collateral as of January 31, 1991, could generate $1.96 billion, assuming RTC would be able to realize 85 percent of the book value of the excess collateral.

FSLIC Operations

Briefing Paper on Fiscal Year 1991 FSLIC Resolution Fund Budget Request, 6/19/91. The OIG reviewed the "Five Step Plan" designed to fulfill the obligation under FIRREA to reduce the cost of the FSLIC assistance agreements. Included in this review was an evaluation of the FSLIC Resolution Fund fiscal year 1992 budget request. The OIG concluded that it was too soon to tell whether RTC's implementation of the Five Step Plan would actually result in cost savings, but savings of over $2 billion appeared possible. The OIG also found that because of an error, the 1992 appropriation needed to be reduced by $32 million.

FSLIC Resolution Fund Fiscal Year 1993 Appropriation Request (A92–017), 6/3/92. The OIG determined that the FY 1993 FSLIC Resolution Fund (FRF) appropriation request should be reduced about $300 million in costs associated with the First Gibraltar Bank, Federal Savings Bank assistance agreement that will not be incurred because the agreement was renegotiated in February 1992. In addition, estimates of FY 1993 outlays and collections used to support the appropriation request have changed. The overall impact of eliminating the First Gibraltar costs and changing estimates should be a reduction in the $6.8 billion appropriation request of between $1.4 billion and $4.6 billion.

Q.2. In March 1992, the RTC began closing a number of field offices "to increase efficiency, control performance, and prepare for the downsizing of the Corporation," reducing field employee levels from 7,302 to 6,394. Has the closure of field offices and reduction of field employees since March 1992 increased RTC efficiency and improved performance?

A.2. Two audits were included in the OIG's FY 93 Audit Plan that deal with this area. One of the audits—titled Planning and Cost-Effectiveness of RTC's Downsizing—is underway, but it is too early to report any definitive results. A second audit—titled Controls Over Assets During Consolidated Office Closings—is scheduled to be started later in the fiscal year. The description in the OIG's Audit Plan of each of these audits follows:

Planning and Cost-Effectiveness of RTC's Downsizing

Audit Objectives:

(1) Evaluate RTC's planning and implementation of the downsizing effort to ensure that the cost-effectiveness of the actions has been adequately considered.

(2) Determine whether the timing of the closings interferes with RTC's ability to carry out its mission.

Background:

Most RTC program areas will be affected by the office closings related to the downsizing effort. Adequate planning of the process

is needed to avoid (1) excessive or unnecessary costs related to lease agreements, furniture, and contracted services; (2) duplication of effort; and (3) the loss of valuable and needed information.

Potential Benefits:

This audit may result in improved planning and controls, and in avoidance of unnecessary costs.

Controls Over Assets During Consolidated Office Closings

Audit Objective:

Determine whether RTC has maintained adequate control and integrity over the assets, records, documents, and systems being transferred from one office to another.

Background:

In March 1992, RTC announced a restructuring plan for the field offices to increase efficiency, control performance, and prepare for downsizing the Corporation. The plan called for eliminating the four regional offices by July 1, 1992, and phasing out six consolidated offices by early 1993 and three more by September 30, 1993. The assets managed and records created in the offices slated for closure will be transferred to another agency location for continuing action and resolution. The transfer of assets and records inherently increases the risk for fraud, mismanagement, and abuse. Therefore, it is imperative that RTC maintain control over the assets and data being transferred to ensure complete and accurate information.

Potential Benefits:

Loss and misplacement of assets may be prevented. The opportunities for fraud, mismanagement, and abuse can also be minimized.

Q.3. How many employees does the RTC IG have as of March 1, 1993? Please provide a breakdown of RTC IG employees in the following categories: (a) field agents; (b) field supervisors; (c) other supervisors having authority or review responsibilities of either field supervisors or field agents.

A.3. As of March 1, 1993, the Office of Inspector General had 298 employees. The following chart provides a breakdown of RTC OIG employees in the categories requested:

Office	Field Agents/ Auditors	Others (Analysts, Desk Officers, Lawyers, Clerical)	Field Supervisors	Other Supervisors	TOTAL
Office of Investigation	52	17	5	2	76
Office of Audit	148	22	5	4	179
Office of Oversight and Quality Assurance	10	1	0	3	14
Office of Policy, Planning, and Resources		11		3	14
Immediate Office of Inspector General		13		2	15
TOTAL	210[a,b]	64[a]	10	14	298

[a] Includes individuals who have some supervisory duties in addition to operational responsibilities.

[b] Numbers do not include 32 unfilled vacancies at the field agent/auditor level.

CONTRACTING

At various times, the IG office of the RTC identified various instances of noncompliance with established contracting policies and procedures at RTC.

Q.1. During RTC's first three and a half years of operation, did it continue to experience noncompliance with contracting policies and procedures?

A.1. The Inspector General testified before the House Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance on March 18, 1993, regarding RTC's performance over the past 3 years. His testimony focused on RTC's performance in three high-risk areas, including contracting. His remarks addressed RTC's continuing noncompliance with its own policies and procedures and the effects of such noncompliance. The following is a summary of those remarks supplemented by additional information the OIG has gathered as a result of our audits and investigations.

Consistent with FIRREA, RTC relies on the services of the private sector for most of its activities. RTC has issued over 100,000 contracts with estimated fees of over $3 billion. RTC is also spending hundreds of millions of dollars for outside counsel services. While necessary, the extensive use of and reliance on the private sector exposes RTC to waste, fraud, and mismanagement.

RTC began operations with few controls and oversight mechanisms in place to prevent and detect problems. Over time, RTC has issued policies and procedures and put in place delegations of authority to better control its contracting activities. In particular, RTC has recently revised its *Contracting Policies and Procedures Manual,* which is intended to provide guidance for every phase of

the contracting cycle—from pre-solicitation to termination of a contract.

Unfortunately, RTC management does not always follow its prescribed contracting policies and procedures. Such noncompliance can only be prevented by RTC having an aggressive system of controls and oversight, both over its contractors and its own staff. RTC's lapses in following its own contracting policies and prudent business practice have been and continue to be very costly to the Corporation and the taxpayers.

On two very significant and costly contracts RTC has awarded—the "Western Storm" reconciliation and Price Waterhouse/HomeFed management and continuity contracts—RTC program personnel did not follow RTC's policies and procedures and incurred excessive costs.

"Western Storm" was the subject of several congressional hearings, investigations, and reviews by congressional committees, the OIG, and the General Accounting Office. As the OIG learned through its review, because RTC inadequately planned, awarded, and managed this contract, the Corporation paid between $3.8 million and $6 million more than was necessary. The project ultimately took 8 months to complete with overall project costs of almost $24 million and RTC still was not assured that an accurate accounting of institution assets had been completed by the contractor.

The Price Waterhouse/HomeFed contract was also the subject of hearings, investigations, and media attention. In this case, the Corporation paid almost $7 million, or 67 cents a page for labor only, for an accounting firm to perform what are essentially photocopying services. Because RTC obtained similar services at a cost of about 11.5 cents per page, including labor, copiers, and supplies, the OIG estimated that RTC may have incurred excessive costs of more than $6 million. A portion of the $7 million that RTC has paid to Price Waterhouse is for subcontracted services that are "marked up" by the contractor and billed to RTC at an amount in excess of what Price Waterhouse actually paid for these services. Some of these "mark-ups" exceed 340 percent.

The OIG attributes these exorbitant costs to RTC's inadequate planning, contracting, and monitoring practices. In this case, RTC wrote a page and a half "contract" that provided no protection to the Corporation and gave the contractor carte blanche.

The OIG has also reported numerous problems with RTC's retention of outside counsel for legal service engagements. RTC has executed over 2,500 legal services agreements and spent in excess of $390 million for legal services. RTC has not implemented satisfactory review and payment procedures to prevent incorrect, questionable, and excessive costs from being charged and paid by RTC. The OIG also found that RTC has paid for unnecessary services, rates other than agreed to, and unallowable expenses. For example, the OIG questioned $272,000 in claims for fees and expenses submitted by a major law firm representing RTC/FDIC in its case against Drexel Burnham Lambert Group and Michael Milken.

RTC has also experienced contracting problems associated with its system development efforts. For example, the Asset Manager System (AMS), RTC's primary system for transferring cash to and

from its contract asset managers, has been plagued by management problems. In auditing RTC's solicitation, award, and negotiation of its AMS contract, the OIG fourd that RTC's actions to expedite the procurement adversely impacted vendor selection, system implementation, and ultimate system costs. RTC's evaluation of proposals was not adequate, certain actions by RTC personnel during the acquisition were not appropriate, and other actions hindered the contracting process. As a result, RTC did not have a sound basis for selecting the contractor to develop and operate AMS, and the fairness of the award is in question. Furthermore, the cost of AMS modifications and enhancements and additional implementation services totaled $7.5 million—12 times the original development costs in the contract. Additionally, nationwide implementation of the system fell 19 months behind schedule and required more changes after implementation to be useful to RTC for overseeing asset management contractors.

The OIG has also investigated instances of contracting irregularities by RTC employees and fraud or theft by contractors. The OIG believes that if RTC had proper controls in place and had complied with its own policies, some of these cases could have been prevented. For example,

- One of the OIG's investigations found that RTC awarded $2.3 million in records inventory and storage contracts to two contractors without soliciting competitive bids. As a result of the investigation, the contracts were cancelled, the scope of the work was subsequently reduced, and the work was performed by RTC staff for about $150,000.
- Two contract employees were charged with stealing over 6,500 money orders potentially worth more than $6 million from an RTC institution.
- Because another RTC contractor failed to secure RTC collateral, a temporary contract employee was able to steal Krugerrands, U.S. silver dollars, and U.S. coin proof sets from an RTC office in Houston.

Susceptibility to fraud, waste, and mismanagement is always a concern when dealing with contracts awarded by government agencies. This risk is heightened when the Corporation awards as many contracts and depends as heavily on contractors as RTC does. In fact, much of the Corporation's success or failure depends on the performance of these contractors. Therefore, RTC must have very strong internal controls in the contract planning, solicitation, and award areas. Additionally, in light of RTC's funding difficulties and the current state of the nation's budget, cost control and containment is essential. However, as indicated earlier, RTC needs to improve in these areas, as well as with contractor oversight and the review of contractor bills. Simply put, RTC employees and contractors must be held accountable for the funds entrusted to them.

Q.2. During RTC's first three and a half years of operation, what was the total cost to the government as a consequence of non-compliance with contracting policies and procedures.

A.2. Answer A.1. of the Effectiveness of RTC IG Operations and Miscellaneous section provides cost savings to RTC as a result of

the OIG's audits and investigations, including those resulting from noncompliance with contracting policies and procedures.

Q.13. An RTC IG audit pertaining to services performed by Cravath, Swaine & Moore identified $272,000 in questioned costs, and recommended that the FDIC and RTC legal division obtain a refund. What steps have been taken to date to obtain the refund of the questioned costs? Please specify any other cases in which the RTC IG has found overcharges by law firms or lawyers.

A.13. According to a January 22, 1993, memorandum from the RTC Legal Division, negotiations had not yet occurred with Cravath, Swaine, and Moore. The distribution from the SEC Drexel Civil Disgorgement Fund was not anticipated to be made before January 25, 1993. Negotiations (which we understand are now underway) were not scheduled to begin until after the anticipated distribution.

Regarding other overcharges, the RTC OIG has undertaken a major effort to audit legal service providers. The OIG is in the process of performing eight in-house audits that should produce significant results. Also, to provide timely and effective audit coverage of the large number of law firms involved (over 1,000), the OIG competitively solicited independent public accountants (IPAs) to assist in the audit effort. At the present time, contracts have been awarded to two IPAs to audit 50 law firms. The legal fees and expenses to be audited exceed $180 million. The OIG plans to award a second round of audit contracts for an additional 50 law firms within the next 6 months.

The objective of these audits is to determine whether the legal services rendered and the charges billed to RTC are fair and reasonable, adequately supported, and within the provisions of applicable RTC policies, regulations, guidelines, and legal services agreements.

Based on the OIG's audit experience to date, the OIG expects the following types of issues to emerge from the audits.

- Charges for legal services not actually rendered for RTC.
- Inaccurate charges caused by the law firm's application of hourly rates that differ from those prescribed in the legal services agreements.
- Weaknesses in internal controls governing the time charged by attorneys and other legal staff.
- Duplicate payments.
- An unreasonable number of hours charged for an attorney, such as more than 24 in a day.
- "Wolfpacking" of attorneys, that is, using more than the required number of attorneys to handle a particular legal matter.
- The inappropriate use of inexperienced attorneys who expend inordinate effort in researching RTC legal matters.
- Excessive "conferencing" among a firm's attorneys.
- Improper use of legal professionals to perform clerical/administrative functions, such as photocopying.
- Time charges by attorneys that are not commensurate with the work done, as evidenced by the written products prepared.
- Excessive charges for expenses, such as photocopying, telephone and telefax, database services, travel and transportation, process

servers and messengers/couriers, express mail delivery, transcripts, and witness/consultant fees.

Q.14. Two instances involving overcharges of RTC by independent public accounting firms (Price Waterhouse/HomeFed and Coopers and Lybrand/Federal Savings) have received substantial attention in the wake of IG reviews. According to press accounts, a third case, involving HomeFed and a second thrift, involving Grant Thornton is currently under investigation. Have you found any other instances in which public accounting firms may have overbilled the RTC? If so, please specify the contracts, institutions, and amounts involved.

A.14.

Contract	Institution	Questioned Amount
781-90-0008	Gibraltar Savings	$22,448
BOA#781-90-0006*	Various (91 total)	$3,900,000

* BOA#781-90-0006 is the Western Storm contract.

Q.15. In the recent hearing on the Price Waterhouse overcharges at HomeFed conducted by Senator Glenn in the Senate Government Affairs Committee, former RTC director Casey took issue with the conclusions of the RTC IG on several matters. It is requested that both the RTC and the RTC-IG provide their independent, current assessments of whether the RTC-IG's conclusions regarding this matter, presented at the Government Affairs hearing, were correct; and the validity of the criticisms leveled at the IG by Mr. Casey.

A.15. On February 19, 1993, the Inspector General testified on RTC's HomeFed Contract with Price Waterhouse before the Subcommittee on Regulation and Government Information, Committee on Governmental Affairs, United States Senate.

The conclusions of the Inspector General's testimony were as follows:

SUMMARY OF FINDINGS

RTC paid about $7 million, or 67 cents per page for labor only, for an accounting firm to perform what were essentially photocopying services. As of September 30, 1992, Price Waterhouse had copied over 10 million documents. RTC obtained similar services at a cost of about 11.5 cents per page, which included the labor, copiers, and supplies. Therefore, the OIG estimated that RTC may have incurred excessive costs of more than $6 million through September 1992 and an undetermined amount from October 1992. A portion of the $7 million that RTC paid to Price Waterhouse was for subcontracted services that were "marked up" by the contractor and billed to RTC at an amount in excess of what Price Waterhouse actually paid for these services. Some of these "mark-ups" exceeded 340 percent but were allowable under the contract that RTC entered into with Price Waterhouse.

To perform these photocopying services and document management functions, Price Waterhouse brought in approximately 700

staff from over 60 of its offices in the United States, including Hawaii and Alaska, and Canada and Mexico. At one point, about 1,300 Price Waterhouse and its subcontracted employees were on site. Essentially, Price Waterhouse was being paid an average of $35 per hour for its photocopying services and produced an average of 51 copies per hour. RTC was also paying for all related travel costs, which totalled $2.3 million as of September 15, 1992. The OIG noted several instances where employees brought in from Price Waterhouse's out-of-state offices worked on the project for fewer than 40 hours before returning home.

At the time the OIG testified, it could not determine how much the copying and document management had cost to date. While Price Waterhouse was supposed to submit bills every 2 weeks, the bills it submitted that the OIG saw were only for work performed through September 30, 1992. The costs for Price Waterhouse's work could exceed $25 million in the end, with a significant portion being for photocopying services.

From a legal standpoint, RTC had little contractual recourse. Although Price Waterhouse's work was considered a major task, RTC wrote a page and a half "contract" that provided no protection to the Corporation and gave the contractor carte blanche. RTC allowed Price Waterhouse to charge these amounts and perform these services. The OIG considers these charges excessive. Based on the OIG's recommendations, RTC's Office of Contracts renegotiated the rates charged by Price Waterhouse and agreed to by RTC.

INDIVIDUAL FINDINGS

Essentially, RTC's senior management, in conjunction with OTS, set a deadline to resolve HomeFed without properly planning for what lay ahead. Senior management's sales driven focus dictated the pace and actions that followed. The deadline became RTC's goal. As a result, RTC ignored contracting policies, procedures, internal controls, and overall costs.

The Office of Contracts and the Legal Division Were Not Involved

RTC's program office personnel did not involve two key components of any contracting effort—the Office of Contracts and the Legal Division. Program office personnel were allowed to write and execute the contract, and, as a result, key elements were missing. According to RTC's policies and procedures, the program office is primarily responsible for determining that a contracting need exists, providing a clear definition of the work needed, estimating costs, and suggesting possible sources for solicitation. On the other hand, the Office of Contracts and the Legal Division ensure that RTC's interests are protected and that key controls are included in the contract. Had the Office of Contracts and the Legal Division had appropriate input, the OIG believes that many of the ensuing contracting problems would have been avoided.

An Inappropriate Contracting Vehicle Was Used

The program office issued the contract using a task order agreement designed for completely different services. The task order

agreement used was for obtaining asset valuation reviews (AVR),[1] which are generally awarded on a fixed price basis and average about $30,000 per review. On the other hand, the management and continuity contract dealt primarily with coordinating the activities of other contractors and photocopying. It was awarded as a time-and-materials contract, which, according to subsequent discussions with the AVR contract coordinator, would cost $5 million. However, there is no documentation supporting this estimate. To justify the use of the AVR task order agreement, RTC's Department of Resolutions added an AVR requirement to the responsibilities assigned to Grant Thornton. There were no AVR responsibilities assigned to Price Waterhouse. RTC's own internal documentation states that AVR work would be minimal, if any. Furthermore, the AVR contract coordinator subsequently told us that using the AVR task order agreement "was a stretch."

Instead of using this task order, RTC should have assessed the nature of the work to be done, determined the appropriate expertise to accomplish the tasks, and solicited firms accordingly. Essentially, the OIG questioned RTC's need for an accounting firm to perform the types of tasks in the agreement.

The Corporation's Delegations of Authority Were Not Followed

The task order was not signed in accordance with the Corporation's delegations of authority. The contract was signed by the VP for Field Resolutions. He does not have authority to execute contracts. Further, the contract was not approved by the Division of Legal Services, as required.

Additionally, RTC has argued that the contract was executed under a delegation pertaining to the authority of RTC managers to initiate competitive contracts. However, it specifically advises that "This authority does not permit RTC managers to actually execute contracts . . . Rather, it enables them to decide, within the limitations of their budget authority, to pursue the purchase of goods and services . . . through established contract execution channels."

RTC has also argued that the contract was executed under another delegation that provides authority to approve expenditures for administrative contracts and is described as "the authority of RTC managers to make decisions to obtain contract goods and services." Again, it does not authorize the initiation of the contracting process, but rather, "pertains to the manager's permissible dollar threshold for making purchases." Further, "it does not authorize RTC managers to actually execute contracts; that must be accomplished through established contracting channels."

The task order was not signed in accordance with either of the above delegations for the following reasons:

- It was the execution of a contract, which is specifically excluded from the authority delegated.

[1] The goal of the AVR is to estimate the value of assets of a failing savings institution. Generally, AVR contractors review both a dollar volume of assets and a certain number of assets to determine a valid estimate of the total loss in the asset portfolio. This estimated loss is critical because it flows into RTC's resolution cost model and is used to estimate the most cost-effective method of resolving the institution.

- The redelegation to the VP for Field Resolutions was limited to $1 million. It was obvious from the beginning that this contract would far exceed that amount. The comparable redelegation for non-competitive contracts was only $500,000.

The delegations are a key control of the Corporation. Prudent fiscal management requires that planned expenditures be reviewed prior to procurement. This review is intended to achieve the most effective and economic use of amounts made available, to provide for contingencies, and to bring about savings. Delegations are the vehicle by which this review is achieved. In the case of the Price Waterhouse contract, it is clear that the Corporation's delegations of authority were violated.

RTC Interests Were Not Protected

The May 13, 1992, contract with Price Waterhouse signed by the Department of Resolutions was a page and a half document that contained only a brief description of the management and continuity contractor's key responsibilities pulled from a feasibility study; a reference to the agreed-upon hourly rates; instructions to invoice RTC twice a month; and a period of performance which began on May 4, 1992, and could extend through the end of 1992.

This time-and-materials contract contained no maximum ceiling price; no maximum on the amount of travel costs that RTC would reimburse; no time limit or period of performance; no delivery dates or schedules; no schedule of "deliverables," including work products and progress reports; no acceptance criteria; no penalties for late delivery; and no terms for cancelling the contract. A Senior Attorney in the Contracts Section of RTC's Legal Division characterized this contract as "a contractor's dream."

Perhaps the most striking example of the contract's flaws is its lack of a provision limiting mark-ups on subcontracted labor. The OIG's analysis of the costs paid by Price Waterhouse to firms providing the temporary and professional employees compared to the billings Price Waterhouse submitted to RTC for these employees shows that Price Waterhouse has realized excessive mark-ups on labor costs.

For example, for, the period from June 1 through July 31, 1992, a temporary agency billed Price Waterhouse $1,791,060 in straight time and overtime for clerical employees and clerical supervisors. For the same period, Price Waterhouse billed RTC $4,036,127 for these temporary employees using its proposed hourly labor rates, realizing a mark-up of $2,245,067 or 125 percent. For the pay period ending September 30, 1992, Price Waterhouse's mark-up had increased to 198 percent for temporary employees.

In another instance, Price Waterhouse hired a billing manager through a temporary agency at a rate of $1,505 per week. Price Waterhouse billed the billing manager to RTC at a rate of $6,700 per week, a mark-up of 345 percent.

The OIG noted that Price Waterhouse's overall risk on this contract was minimal—Price Waterhouse incurred little or no additional overhead or personnel costs as a result of using these temporary employees, most employees were not using Price Waterhouse's facilities or equipment, Price Waterhouse was not penalized for late delivery, and Price Waterhouse could bill RTC for

correcting mistakes or errors. Accordingly, the OIG believes that a substantially lower mark-up rate would have been appropriate. In many contracts RTC issues, such as its asset management contracts, RTC allows no mark-up on subcontract costs.

The time-and-materials contract did not contain measurable criteria that could be used to evaluate Price Waterhouse's progress and respective costs. As a result, effective oversight was precluded. For a time-and-materials contract such as this, real-time reviews of contractor performance and cost are mandatory for control purposes. These reviews did not occur.

RTC also did not require Price Waterhouse to provide any productivity targets or measures regarding the number of copies to be made in a particular time frame and the number of employees required to accomplish the tasks. Furthermore, RTC did not perform regular floorchecks to confirm attendance or to ensure that staff were productively employed.

The Inspector General does not waiver from the positions he took on these points.

VIEWPOINT OF RTC'S FORMER PRESIDENT AND CEO

The former President and CEO of the Corporation took exception to several issues regarding the Price Waterhouse contract. Mr. Casey's assertions and the OIG's response follow:

1. THE PROJECT WAS ADEQUATELY PLANNED AND NOT DRIVEN BY DEADLINES.

OIG Response: In an attempt to conduct some planning for the HomeFed project, RTC contracted with Kenneth Leventhal to perform a pre-due diligence planning study. The objectives of the study were to determine the feasibility of completing the due diligence process within the specified time constraints, to plan the due diligence process, and to estimate resource requirements for the due diligence teams. To accomplish these objectives, Kenneth Leventhal reviewed the composition of the HomeFed asset portfolios, met with HomeFed officials, performed sample file reviews, categorized the assets into potential disposition pools, and developed a work flow diagram of the anticipated due diligence process. The feasibility study was conducted between April 7 and 26, 1992, and Kenneth Leventhal formally presented the study results to RTC on May 1, 1992.

The overall conclusion of the study was that the "completion of the due diligence process within the specified time constraints will be difficult and challenging task due to the large number of assets held by HomeFed Bank and the relatively compressed timeframe." Kenneth Leventhal noted that the success in meeting the deadline was dependent on several factors, including the proper coordination of the due diligence contractors by the MCC and the accuracy of HomeFed's representations concerning asset quality and reliability of information.

The general thrust of the feasibility study was how RTC could meet the September 30, deadline. It should have instead focused on whether the deadline was feasible and what course of action made the most sense given the tight time frames. For example, the feasibility study presented to RTC on May 1 recommended that con-

tractors be on board 3 days later, with no consideration of the contracting policies and procedures that would have to be considered before engaging such contractors.

While the feasibility study was a good start to understanding the scope of the work that needed to be done at HomeFed, it did not contain enough detailed information to adequately contract for the MCC services. For example, even though Kenneth Leventhal interviewed HomeFed management and performed a sample review of the asset files, the firm did not discover the existence of the DOJ subpoena during the study. Therefore, this information was not included in the report to RTC. RTC was thus not made aware of the potential impact of the subpoena on the due diligence and related efforts at HomeFed. RTC took the information Kenneth Leventhal provided in its report, including the brief key responsibilities of the MCC, and used it to write the solicitation for the MCC services. RTC performed no further contract planning to better define the tasks required of the MCC.

The former President and CEO also disagreed with the OIG's contention that the project was "deadline driven." The OIG sees evidence to the contrary. OTS and RTC agreed to incorporate elements of RTC's Coordinated Institution Marketing (CIM) program into the Accelerated Resolution program. At the time this decision was made, a CIM had never been completed at an institution, but RTC expected the program to be successful. However, in a memo to the President and CEO, OTS expressed reservations regarding the CIM and the September 30 deadline and suggested that RTC drop the CIM component, if necessary. Despite the obstacles encountered along the way, RTC continued to believe the ARP/CIM was a viable approach and did not modify its plans.

Additionally, the CIM program was undertaken at Investors Federal Savings Bank in Richmond, Virginia, and was ongoing during part of the HomeFed project. The program at Investors, a much smaller institution, began in February 1992 and was completed in October 1992, a 9-month period. The ARP/CIM envisioned at the much larger institution, HomeFed, was optimistically expected to take only 5 months to complete.

Finally, the HomeFed weekly status reports sent by RTC staff to the Senior Vice President and Chief Financial Officer and the Senior Vice President for Asset Management and Sales from April 10 through June 26, 1992, made numerous references to the September 30 deadline. Even when obstacles like the DOJ subpoena presented themselves, staff pressed on, determined to overcome any delays standing in the way of the deadlines.

2. THE SCOPE AND COST OF THE PRICE WATERHOUSE JOB DRAMATICALLY INCREASED WHEN RTC DISCOVERED THE DEPARTMENT OF JUSTICE'S SUBPOENA ON MAY 15.

OIG Response: As a result of the Department of Justice (DOJ) subpoena, which was made known to RTC on May 15, 1992, Price Waterhouse created detailed procedures to control the handling of HomeFed's original documents. Basically, the procedures provided controls for the tracking of, and access to, the original documents during the copying and due diligence processes. Price Waterhouse published a set of procedures for each of the eighteen HomeFed

asset portfolios. However, the procedures were almost identical between thc different portfolios. Further, only one set applied to copying activities.

The document control procedures, published in a manual entitled *Resolution Trust Corporation Accelerated Resolution Program for HomeFed Bank: Document Control Procedures,* did create additional work for Price Waterhouse. However, according to the Price Waterhouse HomeFed Project Manager, the subpoena and the use of the document control procedures did not cause an increase in the number of copies that had to be made, but rather just required Price Waterhouse to expand on their procedures to ensure the integrity of the original documents was never compromised. Prior to discovering the subpoena, Price Waterhouse had planned to use a number of controls over the documents during the copying and due diligence processes, including the use of logs to document the receipt and release of asset files to and from the copy centers.

RTC has maintained that the additional procedures caused the inflation of the copying costs to $.67 per page, not including paper and copy machine usage. However, the $.67 per page represents what Price Waterhouse commonly refers to as "the copy process." The copy process is broken into five distinct steps: (1) preparation, (2) copy, (3) reassembly, (4) quality control, and (5) quality assurance. The following functions are not included in Price Waterhouse's Document Management billings, but have not been included in the $.67: library, compliance, facilitation, procedures and training, microfilm, and shipping.

Despite the need to follow strict control procedures, it is the opinion of the Inspector General that the cost to copy the HomeFed documents should never have exceeded $.19 per page. In the course of the OIG's review, it contacted several firms that specialize in litigation copying (the copying of documents under a subpoena or otherwise involved in litigation). These firms told the OIG that their per page rates include the use of copy machines, all necessary paper, paper clipping, stapling, and if required, a 100 percent copy check against the originals to guarantee accuracy. Depending on the complexity of the job, their rates would range between $.10 and $.19 per page. These rates factor in the need to operate under strict document control procedures, such as those used by Price Waterhouse at HomeFed.

The OIG believe that the excessive copying costs at HomeFed were due to three factors. First, despite the availability of firms trained in litigation copying, RTC chose an accounting firm, Price Waterhouse, to perform the copying at HomeFed. This required substantial training that would not have been necessary had a specialized litigation copying firm been retained to do the work. Second, RTC did not properly oversee the project, which led to poor controls over staffing levels and excessive charges that went unchecked. Further, Price Waterhouse hired temporary agency employees to perform most of the copying activities, but did not pass through these subcontract charges at cost. Rather, it charged RTC rates that resulted in markups as high as 353 percent. In fact, the mark-up on temporaries alone increased the cost per page by $.15.

3. PRICE WATERHOUSE WAS APPROPRIATELY AWARDED THE MANAGEMENT AND CONTINUITY TASK UNDER THE ASSET VALUATION REVIEW TASK ORDER AGREEMENT.

OIG Response: The task order was nominally executed under the general auspices of the Asset Valuation Review Agreement. The contractor's duties under the Asset Valuation Review Agreement were "to conduct on-site inventory, analysis, and valuation of assets in the portfolios of an entire savings and loan institution." The Asset Valuation Review Agreement was valued at approximately $4 million, representing the total of about 130 task orders estimated to cost about $30,000 per task orders in contrast, the task order issued the Price Waterhouse was essentially a photocopying and microfilming contract. It was originally estimated to cost about $5 million, and is now estimated to cost $25 to $30 million.

The tasks and the size of the contracts in this case were so disparate that the Asset Valuation Review Agreement was not an appropriate agreement under which to issue the task order. It seems self-evident that rates charged by accounting professionals for valuation work would be substantially higher than those to be expected for photocopying. To argue that the task order was "competitively" awarded because it was awarded under the competitively bid Asset Valuation Review agreement is not credible.

4. CONTRACTOR OVERSIGHT AND COST CONTROL WERE ADEQUATE.

OIG Response: From the beginning of July 1992, only one oversight manager was personally stationed in San Diego. The oversight manager with primary responsibility for Price Waterhouse arrived at HomeFed on July 20, 1992, and was assigned responsibility for auditing and approving the Price Waterhouse labor and travel expense billings. He stated his oversight role at HomeFed was outside of his normal job description and training, and that he lacked training in auditing and contracting.

The oversight manager indicated that the primary guide he has used in auditing the labor billings was the "reasonableness" test, but that since the billings were submitted 6 to 8 weeks after the billing period, he found it very difficult to make reasonableness comparisons of the billings to the contractor activity of the billing period. He has not been able to verify the legitimacy of the hours billed, i.e., that each employee was actually at HomeFed and working for the billed number of hours. He indicated that his review of the legitimacy of hours was limited to reviewing Price Waterhouse's status report for the applicable pay period to determine what kind of activity was occurring and using that to make a reasonability assessment. The oversight manager did not perform documented on-site inspections of Price Waterhouse's operations.

Labor billings for pay periods ending May 31, 1992, and June 15, 1992, were signed and dated by the former on-site oversight manager. The oversight manager could not provide any further documentation supporting the performance and results of the former oversight manager's review. Labor billings for pay periods ending June 30, 1992, through July 31, 1992, were paid without any evidence of oversight review and approval. The first documented review of a labor billing is a memo dated November 5, 1992, regarding the oversight manager's review of the August 15, 1992, and Au-

gust 31, 1992 billings. The oversight manager's review was limited to a comparison of the hours per the billing to the hours per the time sheets. RTC's lack of appropriate monitoring and oversight has resulted in questionable billing practices going unnoticed. Following are some examples:

- Individuals' billing rates increased from one pay period to the next, with no apparent justification for the increased rate.
- Some professional contractors have been billed at the Senior Management rate of $160/hour. The mark-up earned by Price Waterhouse on these people averaged 204 percent.
- The number of overtime hours is excessive. For pay periods ending June 15, 1992–June 30, 1992, 50,205 hours were billed for Price Waterhouse employees; 12,511 of these hours, or 25 percent of the total, represent overtime hours. For example, one staff person was billed for 192 and 194 hours for the two pay periods, and one senior was billed for 173 and 191 hours.

Also, the lack of monitoring, especially the absence of regular on-site inspections of Price Waterhouse's operations, resulted in downtime, copying/reassembly quality issues, and unprofessional conduct on the part of the temporaries, going unnoticed by the RTC. The following related observations were made during OIG interviews with security personnel and HomeFed employees and contractors. All of these examples are supported by at least two interviews the OIG conducted.

Temporary employees were idle a lot of the time; one shift did nothing for the entire 8 hours.

From the middle of June to the middle of July, the copy process experienced about 35 percent downtime. When temporaries experienced downtime, they frequently played poker.

RTC personnel were not apparent on-site very much. When they were on-site, the temporaries were told to re-review files to appear busy while the RTC people were present.

A lot of downtime was noticed. At one point, about 30 temporaries and their supervisors did nothing for a week. Other instances of idle time were observed.

The third shift temporaries would brag about sleeping on the job, taking two hour lunches, reading the newspaper, etc. The first shift would spend the first part of the day cleaning up the third shift's mistakes. The third shift temporaries signed in and out all night because they did not have anything to do.

Construction files received back from Price Waterhouse were in very poor order. Sections were misplaced, documents were upside down, recent officer comments were missing, and documents were not fastened in the file. The poor quality of the files were not exceptions but seemed to be a general condition.

Loan officers would sometimes hide a file to be copied because they were afraid that if they surrendered it, they might not be able to get it back.

The supervisors over the temporaries were promoted from the work force. They did not have any training and seemed frustrated and afraid.

Temporaries were involved in vandalizing the break room and rest room facilities. Briefcase searches were implemented to deter the theft of equipment by the temporaries.

5. The Inspector General did not alert the President and CEO to the problems with the Price Waterhouse contract in a timely manner.

OIG Response: On July 31, 1992, the OIG received an anonymous letter by way of its Hotline alleging mismanagement, waste, and abuse by Price Waterhouse in carrying out its contract at HomeFed. The letter alleged that (1) an excessive number of Price Waterhouse professionals were assigned to the contract, (2) 95 percent of the work was being performed by temporaries, (3) unnecessary and excessive charges were incurred for lodging, car rental, and airline travel, (4) Price Waterhouse was over-hiring temporaries, and (5) Price Waterhouse was not adequately tracking its billable hours.

The OIG performed a preliminary review to determine the merits of the allegation. Based on the results of this review and because of the similarities of the issues to Western Storm, the OIG began a full audit in September and shortly thereafter we notified RTC management of its audit.

In October, the OIG also elevated its concerns to RTC's President and Chief Executive Officer. On October 19, 1992, in one of his weekly meetings with Mr. Casey, the Inspector General provided him with a copy of an internal memorandum he had received from his Assistant Inspector General for Audit. This memorandum laid out in detail the OIG's preliminary findings on the allegations and highlighted the weaknesses in the contract. All told, on at least 10 occasions between October 1992 and February 1993, the Inspector General provided written updates on the HomeFed audit to senior management. He provided Mr. Casey information on the updated findings through detailed agendas prepared for several weekly meetings as well as through copies of the IG's correspondence with RTC's Oversight Board. This correspondence consists of monthly briefing documents that are distributed to the Board Chairman and all Board members, including Mr. Casey.

In addition, since it appeared that senior management was not taking action in response to our earlier warnings and realizing that the contract was due to expire but work was continuing, the Assistant Inspector General for Audit wrote to RTC's Director, Office of Contracts, on December 21, 1992, urging him to immediately renegotiate the contract. By this time, the OIG had uncovered another disturbing element—the excessive mark-ups that Price Waterhouse was charging RTC for its subcontracted work. Copies of the OIG's memo to the Director of the Department of Contracts were given to RTC's Senior Vice President and Chief Financial Officer, who was primarily responsible for resolving HomeFed, and to Mr. Casey. It was not until February 5, 1993, that RTC met with Price Waterhouse to renegotiate the contract.

The following table summarizes all meetings and correspondence in which OIG concerns regarding the Price Waterhouse contract were discussed.

Meetings and Correspondence in Which OIG Concerns
With Price Waterhouse Contract are Discussed

Date	Description of Meeting or Document	Summary of Information
October 19, 1992	Mr. Adair met with Mr. Casey (Copy of meeting agenda was given to Mr. Casey at each meeting.)	Mr. Adair discussed and provided to Mr. Casey the 10/16/92 memo from Sharon Vander Vennet, AIG for Audit, to Mr. Adair, indicating concern with excessive rates being charged by PW; open-ended nature of the contract; and similarity to "Western Storm."
October 28, 1992	OIG Activities Report from Mr. Adair to Secretary Brady, as Chairman of the Thrift Depositor Protection Oversight Board (TDPOB). (Mr. Casey received a copy of this report.)	The report discussed OIG audit of PW contract. Indicated OIG belief that rates are excessive. Also noted that (1) contract has no limits on total amount RTC can be charged, (2) work and billings have not been adequately monitored, and (3) the manner in which RTC awarded the contract is of concern to OIG.
November 9, 1992	Mr. Adair met with Mr. Casey	Mr. Adair updated the status of OIG audit of PW contract, including projected cost of contract, billings as of 7/21/92, and average cost per page copied.
November 19, 1992	Letter from Mr. Adair to Mr. Peter Monroe, President, TDPOB (Mr. Casey received a copy of this letter as a member of TDPOB.)	The letter provided information for 12/1/92 Oversight Board meeting. Referred to ongoing OIG audit of PW contract at HomeFed.
November 30, 1992	Mr. Adair met with Mr. Casey	Mr. Adair updated the status of OIG audit of PW contract, including updated information on contract costs.

Prepared by: RTC Office of Inspector General
Date Prepared: February 17, 1993

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Date	Description of Meeting or Document	Summary of Information
December 7, 1992	Mr. Adair met with Mr. Casey	Mr. Adair indicated OIG is drafting memo to Director, Office of Contracts, recommending RTC renegotiate the PW contract. Discussed mark-up on PW billings for temporary employees.
December 21, 1992	Mr. Adair met with Mr. Casey	Mr. Adair discussed and provided OIG memo sent to Office of Contracts that day recommending renegotiation of PW contract.
December 21, 1992	Memo from Sharon Vander Vennet, AIG for Audit, to Director, RTC Office of Contracts	The memo discussed OIG audit findings to date, including details of mark-ups on costs by PW for temporary employees. Recommended RTC renegotiate a new contract that better protects RTC's interests.
January 4, 1993	OIG Activities Report from Mr. Adair to Secretary Brady, as Chairman of TDPOB (Mr. Casey received a copy of this report.)	The report discussed current status of OIG audit of PW contract, including mark-ups on costs by PW for temporary employees. Noted OIG recommendation that RTC renegotiate the contract.
January 21, 1993	Letter from Mr. Adair to Mr. Peter Monroe, President, TDPOB (Mr. Casey received a copy of this letter as a member of TDPOB.	The letter provided information for 2/1/93 Oversight Board meeting. Discussed current status of OIG audit, including recommendation to renegotiate the contract.
February 8, 1993	Mr. Adair met with Mr. Casey	Mr. Adair updated status of OIG audit. Discussed RTC efforts to renegotiate the contract and similarities to "Western Storm."

Conclusion

The Inspector General stands by the facts presented on February 19. Since the hearing, additional work to finalize the Inspector General's report has confirmed the findings presented to the committee at that time.

OVERSIGHT OF LOAN SERVICERS

Q.19. Can you estimate the costs to the government through waste, fraud, or abuse in connection with loan servicers hired by RTC?

A.19. The OIG is currently conducting several loan servicer audits but it is too early to provide a firm estimate of these costs. The OIG's in-house auditors are currently working on two audits of major loan servicers and plan to begin one more later this fiscal year. Also, both the OIG and the Office of Contractor Oversight and Surveillance have contracted with IPAs to audit loan servicers.

The OIG's audit objectives are to assess internal control systems and to ensure that loan servicers do the following:

- Properly service loans in accordance with the RTC contract and other applicable criteria.
- Collect and remit all monies due to RTC.
- Apply payments to loan accounts timely, completely, and accurately.
- Properly begin foreclosure proceedings.

While final audits have not been completed, the OIG has provided to RTC preliminary audit results on one of the loan servicers so that RTC can take immediate steps to correct serious deficiencies with the servicer's control over cash payments. Specifically, the loan servicer had received $28.9 million in funds that had not been remittted to RTC. Uncashed checks totalling approximately $18 million were being held in a file cabinet, while another $10.9 million was on deposit in an RTC lock box account (suspense account) awaiting allocation. Some of these funds had been in that account since June 1992. In addition, the OIG found that from the inception of RTC's contract with the loan servicer over $124 million has been deposited into bank accounts controlled by the loan servicer which had never been satisfactorily reconciled to accounting records.

QUESTIONS FOR THE RECORD

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

MARCH 17, 1993

QUESTIONS FROM SENATOR RICHARD C. SHELBY

Q.1. Secretary Bentsen, in your testimony, you state that the RTC has obtained an average return of 92 percent of book value. Yet of the $84 billion that the RTC has already spent, $58 billion of that is attributable to losses on assets. That level of loss funds seems inconsistent with a return of 92 percent of book value. I am interested to know how the RTC arrives at that figure.

A.1. Losses on receivership assets sold through the end of January came to $21 billion and losses on the sale of conservatorship assets came to $6 billion. On total book value sales and principal collec-

tions of $337 billion this comes to a recovery rate of 92 percent. The $84 billion loss figure on current receiverships comes not only from past asset sales but from the anticipated loss on future asset sales.

Q.2. How do you determine the book value? Say for example a thrift made a loan on a ten million dollar property that in today's market is only worth five. Is book $10 million or $5 million? What if the institution held loan loss reserves against 25 percent of the loan? Is book then $7.5 million? Would capital held against that asset also be deducted before arriving at book value?

A.2. The book value reported by RTC represents the amount of cash the thrift invested in the asset and does not take into account the loss allowance established by the thrift. In the example, RTC's book value is $10 million.

The one exception to the above rule is foreclosed real estate. If RTC foreclosed on the property while the thrift was in conservatorship, the book value is reported as the lesser of the loan amount or the fair market value. If foreclosure occurred, in the example, the RTC's book value for the property would be $5 million.

Q.3. How are the RTC's costs factored into its recovery figures? Is the average recovery of 92 percent of book net of administrative costs such as RTC salaries, rent, legal fees, contract cost, accounting costs, and other overhead?

A.3. The RTC's average recovery of 92 percent of book value is based on gross proceeds and is not net of any administrative, holding or selling expenses. It also excludes all income which would offset many of these expenses.

Q.4. With respect to mortgage backed securities, are recovery rates net of guaranty reserves, pool insurance costs, or other insurance costs associated with the issuance of mortgage backed securities?

A.4. With respect to the 92 percent recovery rate, this figure is gross of expenses on MBS and anticipated loss on credit reserves. However, even if these expected future losses were included the RTC's overall recovery rate would still round to 92 percent. With respect to comparing MBS to other executions and in its financial statements the RTC's estimates of the recovery rates associated with MBS transactions are net of all insurance and other similar costs associated with the transaction. Those estimates also are net of losses projected to be paid out of the credit reserves established by the RTC. At the present time, the RTC holds about $6 billion in credit reserves for MBS transactions and has estimated losses of about $1.5 billion to be charged against those reserves. This is consistent with the rating agencies' rule of thumb that credit enhancement of 4 to 7 times the expected loss is required for a "AAA" or "AA" rating. The loss projections are based on an estimate prepared for each MBS pool by the financial advisor, using applicable rating agency methodology.

Q.5. I understand the RTC's published projected recovery costs for 1993 are 73 percent of book value. I assume this figure is lower because it takes into the account the higher losses expected on the $100 billion inventory of "hard to sell" assets. If we wanted an accurate picture of the cost of resolving an institution, we would have

to allocate the losses from the $100 billion back against the 92 percent recovery rate, correct?

A.5. Yes, as we have said above you have to look at future as well as past losses.

QUESTIONS FROM SENATOR JOHN F. KERRY

(SECRETARY BENTSEN)

Q.1. In your judgment, did the RTC under the Bush Administration succeed in handling the thrift bailout at the lowest possible cost?

A.1. The Bush Administration attempted to keep the cost of the cleanup at a minimum and had many successes. For example, the amount received on the assets sold or collected to date is about $337 billion, which is an average return of 92 percent on books value.

However, as I said in my testimony, there is still much to be done, including: (1) strengthening RTC's internal controls to prevent waste and fraud; (2) responding to, and developing effective followup for, problems flagged by auditors and (3) evaluating RTC's asset sales methods to make sure that the RTC is getting the best price possible on the remaining hard-to-sell assets. In addition, it is critical that we provide funding immediately, as funding delays already have increased the costs of the cleanup by over $1 billion.

Q.2. Where have the unnecessary costs taken place?

A.2. We intend to find out where the unnecessary costs have been and to correct the situation. The administrative actions outlined in my testimony are intended to make a start on identifying the problems and getting them corrected. These actions include: establishing a joint FDIC/RTC task force to (1) ensure the FDIC has sufficient resources to manage the SAIF, (2) plan for the return of RTC personnel, and (3) transfer RTC systems to the FDIC.

Q.3. Can you provide any assessment as to the amount or percentage of RTC spending to date has been as a consequence of RTC-related waste, fraud, abuse, mismanagement, and lack of controls?

A.3. The Inspector General's reports may provide some information on this issue, however rather than look at past mistakes we want to concentrate on improving operations in the future.

Q.4. In the past, I have taken the position that we should not provide funds for the savings and loans through deficit spending, but should provide some form of pay as you go mechanism, as we now do for all other government problems. Initially, the Administration projected a $33 billion additional cost for S&L resolutions. Does the $45 billion number now being requested change the budget numbers for the coming year? Are offsetting receipts or spending cuts necessary in order to avoid having the $45 billion in RTC funding increase the deficit? If not, please specify why offsets are not needed to avoid increasing the federal deficit.

A.4. Congress and the Administration in the 1990 bipartisan budget agreement decided that deposit insurance expenditures are mandatory obligations and would not be treated as new spending for pay-go purposes. Subjecting the fulfillment of the government's in-

surance commitment to pay-go would be like holding depositors hostage to further congressional action.

The $45 billion requested for finishing the cleanup would change the budget number for the coming years only if the amount were spent. The point estimate in the final version of President Clinton's budget, which is our best estimate of the cost, is $32 billion, not $45 billion.

In addition, the Bush budget included $32 billion of loss expenditures for the RTC and the SAIF. However, both the House and Senate budget resolutions, using CBO data, have placed a $50 billion figure in their baselines.

(CHAIRMAN ALAN GREENSPAN)

Q.1. What has been the impact, if any, on local real estate and financial markets of the disposition to date of assets held by the RTC?

A.1. The National and six regional Advisory Boards, which advise the Thrift Depositor Protection Oversight Board on real estate disposition matters, have consistently concluded, on the basis of reports and comments from informed people in the various regions of the United States, that RTC *sales activities* have not been having a depressing effect on local real estate markets. (However, see the answer to Question 2.) At their quarterly meetings, the Board hear from local area Federal Reserve Bank economists, real estate brokers, and academics who are asked about the RTC's market price impact on local markets.

Q.2. To what extent does the presence of the real estate property still held by RTC and by FDIC continue to depress local real estate markets?

A.2. The real estate holdings of the RTC and the FDIC make up a part of the overall supply of real estate in many local markets in the United States. As with other properties in these markets—markets, which in many cases have very high vacancy rates—the presence of the RTC's properties (that is, the actual or potential offering of the properties for sale or for lease) affects the terms on which the properties are leased and the prices at which they sell.

Q.3. How do you assess the near-term risk of RTC property disposition impairing the value of non-RTC real estate in local markets?

A.3. FIRREA provides that the RTC conduct its operations in a manner so as to: 1) maximize the net present value return from the sale or other disposition of failed depository institutions or their assets; 2) minimize the impact of such sales and other dispositions on local real estate and financial markets; and 3) minimize the amount of any loss realized in the resolution of cases. The Oversight Board incorporated these provisions of FIRREA in the strategic plan it adopted for the RTC. Thus, the RTC has been given clear instructions that, as one of its objectives, it should endeavor to minimize the impact of its asset disposition activities on local markets. As indicated in the answer to Question 1, the RTC appears to have successfully complied with those instructions.

Secretary Bentsen, in his recent testimony before the Committee, indicated that the Thrift Depositor Protection Oversight Board and

the RTC are undertaking a thorough review of the RTC's Hard-to-Sell asset strategy in order to determine how the RTC should proceed to fulfill its mandate. The Oversight Board and the RTC will, of course, take care to structure that strategy so that it adheres to the mandates of FIRREA.

Q.4. How do you assess RTC's performance over its initial three and a half years in meeting the mandate of FIRREA to minimize the impact on local real estate markets as it disposes of thrift property?

A.4. As indicated in the answer to Question 1, to date, the RTC's *sales activities,* as reported by those involved in and knowledgeable about local real estate markets, do not appear to have had any adverse effect on such markets. The RTC, of course, has a substantial volume of properties yet to sell, a significant portion of which may be characterized as "hard-to-sell." As such, the RTC will have to proceed in a careful and appropriate way to continue to assure that its activities minimize impact on local markets.

Q.5. Do you recommended any changes in RTC handling of asset sales?

A.5. As indicated in the answer to Question 3, the Oversight Board and the RTC are embarking on a review of the RTC's Hard-to-Sell Asset strategy. Thus, I believe it appropriate to wait and consider the findings of that review before offering recommendations on this question.

Q.6. What impact would passage of a measure authorizing $45 billion for RTC be likely to have on government borrowing costs? On short-term interest rates?

A.6. Ordinarily, an expansion of federal borrowing would be expected to raise interest rates, as investors would require additional compensation to increase their saving to meet higher credit demands. In this case, however, while the authorization of $45 billion for RTC would permit new Treasury borrowing, it merely recognizes an obligation that the U.S. government has had for a considerable stretch of time. Most sophisticated market participants have already factored in the government's responsibility for the insurance funds in assessing the total liabilities of the federal sector. Since market expectations of the structure of current and future federal borrowing already incorporate this obligation, the timely recognization of the obligation should have no new effect on interest rates. Put in another perspective, any increase in borrowing by the federal government to fund a shortfall of thrift assets below their liabilities merely substitutes Treasury debt for obligations that thrifts currently fund. In this light, the assumption of a burden that thrifts shoulder now should place no new demands on the credit market and, therefore, should have no effect on longer-term interest rates. As for short-term market rates, those rates are mostly influenced by Federal Reserve action in the reserves market. Since the passing of the funding authority should have no consequences for monetary policy, short-term rate should not be affected.

Obviously, increased borrowing in the near term will raise total federal debt service costs, at the Treasury must pay interest on a

higher volume of debt. Viewed from a longer perspective, however, the assumption of the obligation new might be cheaper than postponing the recognization of that liability, particularly if failing to come to grips with the problem in a timely fashion raises the overall cost of resolutions.

(RTC OVERSIGHT BOARD)

Achieving Goals of FIRREA

Q.1. Under the provisions of FIRREA, the Congress directed the RTC to reach certain goals in connection with resolving failed Savings and Loans. What is your assessment of the extent to which RTC has met these goals between January 1, 1989 and March 1, 1993, as specified?

(a) Maximize the net present value return from the sale or other disposition of savings institutions and their assets.

A.1. (a) This Administration intends to undertake a comprehensive effort to develop a fact-based RTC asset sales strategy and business plan, as part of its RTC reform package, to ensure that everything possible is done to maximize taxpayers' recoveries.

(b) Minimize the impact of these transactions on local real estate and financial markets;

A.1. (b) There is no evidence to suggest that RTC has affected market clearing prices in local real estate markets. The Regional and National Advisory Boards have held over 75 meetings throughout the country and have had this issue on the agenda at each meeting. Without exception, the answer to this question has been that there has been little, if any, price impact.

However, there has been substantial evidence that RTC has had a psychological effect due to the perception that RTC has a sizable inventory of real estate assets and sells at fire-sale prices. Due to this misperception, Advisory Board members have said that RTC may cause the pace of market transactions to slow as the market "waits and sees" what RTC does.

(c) Minimize the amount of any losses realized in resolving the insolvencies; and

A.1. (c) [See answer to question (a).]

(d) Maximize the availability and affordability of residential real property for low- and moderate-income individuals.

A.1. (d) The Affordable Housing Disposition Program (AHDP) has performed well in balancing FIRREA's competing objectives of maximizing both proceeds to the RTC and affordable housing opportunities for low- and moderate-income individuals. Although the multifamily AHDP got off to a slow start in 1990 and 1991, the program now is achieving a good rate of multifamily properties sales and sales proceeds close to that achieved outside the program. Through January 31, 1993, the last date for which data is available, RTC had sold 350 multifamily properties under the AHDP ($350 million in sales proceeds) containing over 30,000 units (of which over 11,500 have been reserved for low- and very low-income families at restricted rents for between 40 and 50 years). This is approximately 50 percent of the multifamily properties which have been fully marketed under the AHDP. RTC has recovered about 72 percent of appraised value on multifamily properties in the AHDP.

The RTC's single-family AHDP also has performed well. Through January 31, 1993, the last date for which data is available, RTC had sold almost 14,000 properties under the Program ($393 million in sales proceeds). This is approximately 50 percent of the single family properties that have been fully-marketed under the AHDP. In the single-family AHDP, RTC is reaching a much lower income buyer than that established for the Program by Congress in FIRREA. The single-family AHDP is required by law to sell to low- and moderate-income buyers (those earning below 115 percent of area median income). The single-family AHDP is serving buyers with an average income of 65 percent of national median income. The average income of purchasers in the program is $22,803. Surveys of buyers of 21 recent AHDP single family property auctions shows that 40 percent of buyers were minorities and 75 percent were first-time homebuyers. RTC has recovered about 75 percent of appraised value on single-family properties in the AHDP. RTC recently revised its procedures for certifying the eligibility of buyers under the Program and ensuring that the one-year residency requirement is met.

Q.2. To the extent that these four goals were not achieved by RTC during its first three and a half years of operation, what were the principal factors involved?

A.2. The management improvements described in my March 17 testimony are designed to help improve RTC's ability to meet the four goals and to address the problems RTC has had.

Q.3. To what extent can losses associated with failures to reach these goals be quantified? To the extent they can be quantified, what is the size of RTC-related losses resulting from failures to meet the four specified goals of FIRREA?

A.3. Clearly there is a cost in not fully meeting each of the four FIRREA goals. However, it is impossible to place a specific dollar figure on the total cost. As you know, however, there have been too many specific instances of waste, such as Western Storm and the Price Waterhouse contract for HomeFed due diligence services. This Administration intends to correct any systemic weaknesses and put in place the necessary controls to minimize waste, fraud and abuse and maximize taxpayers' recoveries.

(RTC IG)

ASSET MANAGEMENT

SEE IG ANSWERS UNDER SEPARATE COVER.

INTERNAL CONTROLS

From RTC's creation, it was recognized that strong internal controls were essential to prevent and detect fraud, waste, abuse and mismanagement in connection with the conservatorships and receiverships under RTC's control.

Q.3. During RTC's first three and a half years of operation, how effective have internal controls been?

A.3. No one would disagree with the fact that internal controls at RTC were not as effective as they should have been. There are simply too many instances where controls broke down (e.g., Western

Storm and HomeFed). This Administration recognizes the urgency of this situation and intends to address it promptly. As you know, we have adopted specific management reforms to strengthen internal controls, address all GAO and IG audit recommendations, appoint an independent CFO, and establish an Oversight Board audit committee. We believe these reforms will place a long overdue premium on the importance of internal controls at RTC.

Q.4. What have been the principal weaknesses identified in internal controls at RTC, and remaining as of March 1, 1993?

A.4. Since there has been no reliable and comprehensive evaluation of internal controls at RTC, the principal weaknesses can only be described based on anecdotal evidence. Clearly contracting systems and oversight lack the types of controls needed, particularly in an agency that relies heavily on outside contracting. Also, the absence of reliable management information makes it difficult for management to evaluate the effectiveness of controls, particularly where accounting for large amounts of cash is involved.

As part of this Administration's reform package, the RTC CEO has been directed to undertake a comprehensive evaluation of RTC's internal controls system to ensure that necessary controls are in place and that they work. For those areas of the business where controls are weak or non-existent, they will be enhanced or established.

RTC also will be instructed to follow both the intent of the Federal Managers' Financial Integrity Act (FMFIA), as directed by Oversight Board policy, and the applicable section of the Chief Financial Officers Act.

Q.5. What has been the total cost to the government to date as a consequence of internal control weaknesses at RTC?

A.5. Certainly there has been a cost and it has been significant. An estimate of the total cost is impossible to determine at this point. As mentioned above, this Administration fully intends to ensure that RTC establishes and operates in an internal control environment according to standards and procedures prescribed by OMB and the GAO.

Q.6. How much has the RTC recovered on professional liability lawsuits to date?

A.6. As of February 23, 1993, RTC reports that it had obtained recoveries for more than $336 million for professional liability lawsuits and settlements. RTC also reports that there is an additional $35 million remaining to be paid over time from settlements that provided for structured payments.

Q.7. How much has the RTC spent in litigation costs in connection with those recoveries? What is the range on hourly fees paid to attorneys under RTC contracts? What is the average hourly fees paid to attorneys under RTC contracts? What is the average hourly fee? Please identify any cases in which RTC contractors have received payments greater than the approved hourly fees.

A.7. RTC reports that as of January 31, 1993, it had spent over $208 million in fees and expenses for outside counsel and other investigation and litigation support experts. According to RTC, this amount reflects all payments for the investigation, litigation and

resolution of claims in closed cases (such as those that resulted in the $336 million mentioned above) and in numerous other cases yet to be resolved. Calculations of average fees and the range of rates per hour can only be computed manually from individual hard copy records, and therefore, cannot be provided without considerable committment of resources and time. Finally, RTC reports that there have been no cases where contractors were paid more than their approved hourly rates.

Q.8. How much remains in dispute or in litigation in professional liability lawsuits in connection with the RTC?

A.8. RTC reports that there is approximately $8.6 billion in dispute in RTC professional liability lawsuits.

Q.9. Does that amount represent the amount of losses fairly attributable to insider abuse? If not, why not?

A.9. No. The amount represents damages claimed by the RTC, only in the actions brought to date and not yet resolved. *All* thrift losses "fairly attributable to insider abuse" cannot be recouped through the prosecution of civil damage actions against the wrongdoers because the wrongdoers never had or no longer have the money. If there was fraud or abuse in any of these transactions, there may be criminal prosecutions, and, if specific assets can be traced, forfeitures may be appropriate. Experience shows, however, that the actual losses through theft or fraud are a small fraction of the total losses and any recoveries.

Civil actions are brought against officers, directors, attorneys and accountants if, on the facts, it appears likely that the RTC can prevail and actually collect enough to make the action cost-effective.

Q.10. Some have alleged that RTC may have "pulled its punches" on professional liability cases in order to avoid going after politically prominent people. Is there any evidence to support that allegation in any case? If so, please specify.

A.10. On August 11, 1992, the Oversight Board and the RTC requested the RTC Inspector General to conduct a review of certain allegations made by three RTC field attorneys regarding whether political or other extraneous considerations had improperly influenced RTC decisions in PLS litigation. At the October 1, 1992, Oversight Board meeting, the RTC Inspector General reported that his review had not uncovered evidence that RTC PLS decisions had been improperly influenced by political or other extraneous considerations.

Q.11. Last year, the GAO testified that RTC had been slow to hire the attorneys needed to pursue civil claims effectively. The GAO testified that: staffing shortages, lack of standardized and systematic asset tracing procedures, and weak oversight have limited the agencies' ability to pursue potential claims. At this point, does RTC have enough attorneys in-house to effectively pursue civil claims? If not, what additional resources are needed?

A.11. As explained in the Oversight Board's testimony before the Senate Banking Committee on March 17, 1993, Secretary Bentsen has asked interim RTC CEO, Roger Altman to review and recommend improvements in the organization and staffing of the PLS. We are committed to a PLS that operates in a professional and

competent manner, subject to appropriate management review. All necessary action will be taken to achieve those ends.

Q.12. In testimony before the House Banking Committee, RTC officials stated that they expect to spend another $800 million on lawyers for open RTC cases. On the same day, OMB head Leon Panetta announced his intention to conduct a review of whether government contracting out policies were wasting government resources through overpaying private sector employees for work that could be done by public sector employees for less. Is there any evidence that RTC has contracted out for legal services which could have been undertaken by government lawyers at lower cost? To what extent could government lawyers who are paid $25 to $40 an hour be used to do work relating to thrift resolution rather than private attorneys at rates five to ten times higher?

A.12. As you know, RTC is a temporary agency, and it was directed to use private contractors under FIRREA. RTC's legal department has relied extensively on outside contractors, such as law firms, to handle its extensive caseload. At present, RTC has approximately 66,000 pending cases. In July, 1992, the RTC Inspector General performed an audit with recommendations for improving RTC contracting. The FDIC Inspector General also performed a similar audit. As explained in our testimony, Chairman Bentsen has asked the interim RTC CEO to begin to implement a number of administrative actions to improve the management of the RTC. The following parts of this new program should result in improved RTC legal contracting: (1) strengthening internal controls against waste, fraud and abuse (2) responding to problems flagged by auditors; (3) improving management information systems; and (4) strengthening contractor systems and contractor oversight.

Q.13, 14, 15. SEE IG ANSWERS UNDER SEPARATE COVER.

REPS AND WARRANTIES

A contingent liability remains from RTC assets that have been solved arising out of possible claims by purchasers on representations and warranties in the loan sales transactions. Some have expressed concerns that the RTC rep and warranties provide an opportunity for purchasers to assert claims against the federal government later if the deals turn out to be losers.

Some have recommended that RTC in disposing of assets make the narrowest possible rep and warranties, and let the market determine what it is willing to pay for assets with such limited reps and warranties. That way, the contingent liability is reduced, even if the (apparent) percentage rate of recovery seems lower.

Q.16. What is the estimated size of the contingent liability arising from past RTC reps and warranties on asset sales?

A.16. As of December 31, 1992, the RTC estimates the future costs of its representation and warranties on assets that have been sold by conservatorships and receiverships to be about $1 billion.

Q.17. Has the RTC fully provided for this contingent liability?

A.17. The approximately $1 billion in reserves for the estimated cost of representation and warranties claims are included in the es-

timated losses contained in RTC's Financial Statements audited by the General Accounting Office.

Q.18. Given that remaining RTC assets generally have greater problems than the assets that have been sold to date, is it sound practice for RTC to limit reps and warranties to title and ownership, rather than to make broader reps and warranties which might permit the property to be "put back" to the government at a later date?

A.18. The utilization of reps and warranties in loan sale transactions is well established in private market practice. The widespread use of reps and warranties by sellers of mortgage loans reflects a market view that reps and warranties expedite sales and enhance overall recovery values without exposing the seller to undue contingent liability.

RTC policies regarding representations and warranties were developed over an extended period of time in 1990 and 1991 and were based on extensive consultation with financial advisors and market participant's. It was the collective judgment of the RTC and its advisors that the sale of loans without market-standard reps and warranties would result in price discounts far in excess of the contingent liabilities associated with the raps and warranties, due to market uncertainty about the RTC's portfolios. The sale of loans without reps and warranties also would add significant time to the sale process because of the need to allow multiple bidders to perform extensive due diligence reviews of the loan files.

The RTC's standard representations and warranties derive from private market standards and provide the investor with protection on such matter as document defects, payment terms and delinquency status at the time of sale. **The RTCs representations and warranties do not guarantee the borrower's continuing payment of the loan obligation.**

The RTC has taken appropriate steps to manage the contingent liabilities associated with reps and warranties, including the following:

- performing extensive due diligence on each loan portfolio prior to sale;
- establishing cash reserve to pay claims for breach; and
- engaging an experienced private-sector claims administrator to process claims for breach.

The RTC has established cash reserves believed to be ample to provide for the contingent liability associated with loan sale reps and warranties.

The following table summarizes the loan sale transactions for which the RTC had issued reps and warranties as of 11/13/92:

WHOLE LOAN SALES (PERFORMING)

	Billion
1–4 Family	$21.9
Multi-Family	1.3
Commercial	1.8

STRUCTURED SALES (NONPERFORMING)

	Billion
All Types	$1.6

SECURITIZATION (PERFORMING)

	Billion
1–4 Family	$18.4
Multi-Family	4.4
Commercial	6.7

The RTC's policy is to establish cash reserves from loan sale proceeds to cover potential claims in connection with reps and warranties. The RTC typically sets aside 0.64 percent of the outstanding principal balance of 1–4 family loan portfolios, and 3–4 percent of the outstanding principal balance of multi-family and commercial portfolios. The amount of the reserves is based on RTC research with respect to the experience of Fannie Mae, Freddie Mac and private-sector participants in the mortgage markets, with appropriate adjustments to reflect the generally poor quality of information regarding the RTC's portfolio (i.e., the RTC's reserves are a very high multiple of the Fannie Mae/Freddie Mac claims experience).

The RTC's claims experience to date is within expectations and, at the present time, the RTC's reserves appear to be adequate.

The RTC's various sales programs already take into account the greater liabilities associated with harder to sell assets. For example, the reps and warranties provided in structured sales, MIFs and "N" transactions (all of which involve primarily non-performing commercial mortgages) are much more limited than the reps and warranties provided in whole loan sales or securitizations of performing loans. Therefore, for the most part, the mechanisms already are in place to assure that more limited reps and warranties are provided as the RTC's asset base becomes more heavily weighted toward the more difficult assets.

Notwithstanding the above the Oversight Board intends to review the representations and warranties issued by RTC to evaluate the risk to the taxpayers that they may create.

OVERSIGHT OF LOAN SERVICERS

Private firms hired by RTC to service $7.5 billion in mortgages and loans have had effectively no oversight by RTC. According to GAO, "RTC cannot ensure that servicers are accurately accounting

for and remitting loan payments." This would appear to mean that if servicers decide to cheat RTC, RTC is not in the position of being able to find out whether it is being defrauded.

Q.19. SEE IG ANSWER UNDER SEPARATE COVER.

Q.20. What specific steps does the new Administration intend to take to gain control over the problem of adequate oversight of loan-servicers to avoid waste, fraud and abuse in connection with loan servicing?

A.20. The issue of inadequate oversight of loan servicers will be addressed by the Administration's RTC reform proposals. Specific steps include a review and strengthening of the loan servicing contracting system with significant emphasis on internal controls. Additionally, oversight of loan servicing contracts will be strengthened. Through the Oversight Board's audit committee and the newly established independent position of Chief Financial Officer (CFO), these actions will be reviewed and their implementation monitored. The Oversight Board also will rely on the work of the Inspector General and the General Accounting Office to help ensure that any problems of fraud, waste and abuse in loan servicing is minimized.

QUESTIONS OF SENATOR BEN NIGHTHORSE CAMPBELL

Q.1. Several years ago, the Denver RTC office "lost" $7 billion of assets from failed institutions. To rectify this impossible situation, the RTC instituted "Operation Western Storm" to bring in outside help for locating and classifying these assets. A job this large normally requires competitive bidding, but RTC-Denver chose to split the contract in 80 smaller parts to avoid competitive bidding—and then awarded all 80 parts to one company, Financial Management Task Force (FMTF). FMTF charged $7 million for a $1 million job, and the work was so incomplete that the RTC had to hire another company to finish the job. Now it appears that, even after this boondoggle, RTC-Denver plans to hire FMTF again for another job. What breakdowns in RTC oversight allowed this problem to occur originally, and then allowed "Operation Western Storm" to become such a fiasco? How do proposed reforms intend to correct these breakdowns?

A.1. "Operation Western Storm" is a good example of a situation in which lack of internal controls, combined with unrealistic management goals, can create an environment where bad management decisions go unchecked. In the case of "Western Storm" it is quite possible, that had RTC put in place a strong contracting system coupled with good oversight (both independent of program managers), this situation would never have occurred.

The Administration's reform proposals are intended to address these systemic weaknesses in contracting in a comprehensive fashion. First, the RTC contracting system will be strengthened to ensure that managers are kept in check by a strong RTC contract office. Second, a system of controls will be in place to ensure that contracting is done in a prudent and responsible manner. These controls will be evaluated and management will be held responsible for complying with them. Third, strong contracting oversight will be established to ensure that any problems which arise during the

course of a contract do not go unchecked. Both the RTC Chief Financial Officer and the Oversight Board audit committee will play significant independent roles in helping ensure that management does not repeat the types of mistakes associated with Western Storm and HomeFed.

Q.2. Many people in Colorado and throughout the country see the RTC's relatively large salaries and generous bonuses as extravagant for an agency so riddled with scandal and inefficiency. Does the RTC have any plans to base pay on management performance, or otherwise to make RTC officers more accountable for the quality of their work?

A.2. The RTC's salaries are based on the FDIC's pay schedule. The RTC employees, including managers, are rated on their performance by their supervisors annually. While the Oversight Board does not have the statutory authority to alter RTC's salary schedules or bonus policy, Chairman Bentsen has stated his intention to make the issue a topic for discussion with the relevant agencies at an upcoming Oversight Board Meeting.

The Oversight Board's goal is ensure RTC is operated in a manner that completes the cleanup at the lowest possible cost to the taxpayers. That means having an effective and motivated workforce that is accountable for its efforts. The Oversight Board will be diligent in assuring that RTC has strong and effective management.

Q.3. Colorado's RTC asset recovery rate is 45 percent, 5th worst in the nation. This is true despite the fact that Colorado's real estate market weathered the recent recession better than many states, and currently the market is booming. Why is Colorado's asset recovery rate so low? If the poor rate is due to management or systems problems in Denver, what are the plans to rectify this situation?

A.3. The book value recovery rate on all Denver office assets sold from October 1, 1991 to November 30, 1992, was 90.5 percent. In the Real Estate owned (REO) category, for the same time period, the book value recovery rate was 59.4 percent. During the time period of July, 1992, through November, 1992, the book value recovery for all assets was 75.9 percent and the rate for REO was 44.2 percent.

Attached is a Denver office book value recovery rate chart that provides data on the major asset categories over a 14 month period. This charts indicates that the Denver office had maintained excellent book value recovery rates until more recent months. In addition, it should be noted that recovery rates to appraised value, rather than book value, have been approximately 75 percent historically. It is also important to note that, historically, REO assets have represented only about 18 percent (by book value) of the Denver Office's total assets.

DENVER OFFICE
RECOVERY RATES
October 1, 1991 to November 30, 1992
(RECEIVERSHIPS ONLY)

	First Quarter 10/91 - 12/91			Second Quarter 1/92 - 3/92			Third Quarter 4/92 - 6/92			Fourth Quarter 7/92 - 11/92 (1)		
	Asset Reduction	Collections	%	Asset Reduction	Collections	%	Asset Reduction	Collections	%	Asset Reduction	Collections	%
1-4 Mortgages	$1,410,492	$1,335,075	94.7%	$205,941	$223,556	108.6%	$326,497	$316,944	97.1%	$149,086	$124,962	83.8%
Other Mortgages	(277,375)	(244,363)	88.1%	117,456	126,963	108.1%	393,829	413,386	105.0%	$640,786	$584,757	91.3%
Loans	263,404	265,498	100.8%	310,462	276,752	89.1%	76,687	49,241	64.2%	$39,061	$30,292	77.6%
Real Estate	206,095	134,454	65.2%	154,818	96,195	62.1%	139,521	92,068	66.0%	$336,371	$148,521	44.2%
Other Assets	160,639	147,082	91.6%	130,955	140,015	106.9%	(27,526)	27,373	-99.4%	$129,043	$77,620	59.8%
SUBTOTAL	1,763,255	1,637,746	92.9%	919,632	863,481	93.9%	909,008	899,012	98.9%	1,295,147	966,152	74.6%
Securities	96,343	87,284	90.6%	167,215	157,076	93.9%	65,668	69,740	106.2%	$93,060	$87,460	94.0%
TOTAL	$1,859,598	$1,725,030	92.8%	$1,086,847	$1,020,557	93.9%	$974,676	$968,752	99.4%	$1,388,207	$1,053,612	75.9%

TOTALS (2)	
ASSET REDUCTIONS	$5,309,328
COLLECTIONS	$4,767,951
RATIO:	89.8%

(1) Includes October and November data due to Fiscal year conversion to Calendar year basis
(2) Balances may not reconcile to Washington DC data due to in-process items held in Suspense

Prepared by: Paul Botta, FHG
Source: TMS
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Date: January 15, 1993

An additional point worth mentioning is that the Denver office's REO inventory has been comprised of a much higher percentage of hard-to-sell assets, land and commercial real estate. Land and commercial real estate now constitute 90 percent of the Denver Office's total REO inventory. In the past, this percentage ranged from 75 percent to 85 percent. While residential property markets have recovered well in the Denver Office's area in the past year, this has not been the case in land and commercial property.

In the future, the Denver Office is not scheduled to close additional thrifts and, therefore, will not be adding new assets to the portfolio. Also, the recovery rates on REO assets will not be as strong as earlier period due to the fact that the balance of this portion of the asset portfolio is considered hard to sell. Although all necessary action is being taken to receive the greatest value in the sale of assets, the above indicates that future recovery rates will most likely be lower than in prior periods.

Q.4. The RTC Denver Office seems to let property go to the highest bidders regardless of whether those bids are above board or in Colorado's best interests. The recent sales of the "Meadows" property is an example. An RTC-appointed board in Colorado recommended selling the property to a Colorado group; though they did not have the highest bid, they had proof that their bid was secure. RTC-Washington overruled and awarded this contract to the highest bidder—who, it turned out, did not have proper finances, so his bid failed. My office had to work very hard to convince the RTC to reopen the bidding process and properly evaluate new bids, finally resulting (after several months of unnecessary delays) in a contract to another Colorado company. Does the RTC have in place requirements to consider the financial and ethical viability of bidders? Does the RTC consider the effects of its contracts on state and local interests before awarding contracts?

A.4. Under RTC rules, any sales transaction involving an asset with a book value exceeding $50 million must be approved by the Senior Asset Review Committee staffed by senior RTC officials in Washington, DC. In this case, the transaction was handled by the RTC Denver Office, which employed a team of private-sector experts in the fields of real estate, law and public finance.

The team conducted a nationwide program to market the property and received bids from five investors. The committee at the RTC Denver level thoroughly analyzed all bids and presented a detailed review of each to the Committee in Washington.

The Denver Committee issued a preliminary majority recommendation in favor of one bidder group and a minority recommendation in favor of a bid submitted by Mr. Franklin Haney. Subsequently, the RTC Denver Committee reconsidered the bids and made a determination to recommend conditional acceptance of the $29 million Haney offered, which was approximately $14 million higher than the next competing bid.

The RTC's Senior Asset Review Committee in Washington approved the Haney recommendation and directed the Denver office to consummate the transaction under certain guidelines to protect the residents, the taxpayers and the RTC. This approach was consistent with the mandate of the Financial Institutions Reform, Re-

covery and Enforcement Act of 1989 ("FIRREA") to maximize the recovery on the disposition of assets the RTC receives from insolvent savings institutions. The RTC has a fiduciary responsibility to pursue the highest return possible.

A contract was entered into with Mr. Haney in December, 1992, to close the sale of the Meadows in January, 1993. On January 26, 1993, Mr. Haney advised the RTC that he had opted to terminate the contract.

Thereupon, the RTC reviewed the situation and the available alternatives to remarket the property.

The RTC Denver Office then established a competitive sealed bid process open to the bidders who had previously submitted offers. Each bidder was provided an opportunity to submit a best and final bid to purchase the Meadows, to be opened on March 3, 1993. As a result, the winning bid received was for $23.3 million, which represented an $8 million increase over what had been the best alternate bid received in the prior offering. The sale was closed on March 5, 1993.

During the process of marketing the Meadows and ultimately reaching and closing a contract for sale, the RTC Denver Office worked with Senator Campbell, Senator Brown, Representative Hefley, Governor Romer and Mayor Boand. There was substantial interest expressed by the bidders and residents of the affected property in the outcome of the sale. Close communications were held with many parties who had an interest, and the RTC tried to maintain an open dialogue to apprise the parties of the status of the sales process.

Although some parties were anxious about the process and uncertain about the final outcome, it is believed that, in the final analysis, the RTC was well served in taking a deliberate approach to the sale of the asset. It was appropriate to make an effort to achieve the best return possible. While the higher Haney contract proved unsuccessful, it merited pursuit. Then, when it failed, the rebid process accomplished a substantial increase over the prior bids. On balance, the competitive process was successful in maximizing recovery from a nationwide marketing program.

Q.5. In pursuing its "deep-pockets" policy, aggressive RTC and FDIC lawyers go after small-time outside directors which hurts some small, honest businessmen who were caught in a crashing real estate market. Often these lawsuits also end up costing taxpayers millions of dollars because of ill-advised and ill-constructed court cases and appeals. In the meantime, big guns like Michael Wise and Bill Walters involved in obvious scams like Silverado get off scot-free. Does the RTC plan to continue its efforts to attack directors of failed thrifts, or will it concentrate on building solid cases on a few obvious of excessive risk-taking and depositor fraud?

A.5. As explained in Secretary Bentsen's testimony, the interim RTC CEO, Deputy Secretary Altman, will be reviewing the PLS to ensure that it is properly organized, adequately staffed, and operating efficiently. Before a lawsuit is brought by the PLS, there is first a determination that a suit would be meritorious—i.e., that there has been actionable conduct provable in court. A suit is then brought only if there appears to be a good prospect of recovery on

a judgement. RTC does not pursue civil cases where the prospects of collections do not justify the cost of the action.

Q.6. The general perception is that the RTC and federal regulators are in cahoots with executives from big failed thrifts. The result, some feel, is a kind of nepotism which excludes private citizens from RTC decisions and the bidding processes. This perception developed partly because many RTC officials simply transferred over from failed thrifts, and because RTC oversight boards consist of members of the "family," including other regulators and thrift officers. Does the Treasury Department proposal to create an oversight board specify that its members must be completely independent from regulatory agencies and financial institutions?

A.6. We recognize that there have been many problems with RTC's contracting and operations. While the RTC does utilize some employees of a failed institution when it becomes a conservator, it also removes those individuals believed to have been responsible for the losses of that institution. As you indicate in your question, the public in many instances has lost faith in the Government's ability to effectively carry out its responsibilities without fraud and abuse.

Many of RTC's problems have been the subject of audit findings and recommendations. The RTC Inspector General's Office and the General Accounting Office have investigated RTC management practices, internal controls, and information systems generally and specifically, as in the cases of Western Storm and HomeFed/Price Waterhouse. Those investigations have found the problems to be attributable to weaknesses in controls, contracting systems, contractor oversight, and management information systems. In many cases the problem has not been lack of proper policies or procedures but rather lack of compliance with them.

These are very serious concerns and that is why, in his testimony before both the Senate and House Banking Committees Secretary Bentsen outlined a nine-point plan to address and correct these problems. In addition to the nine-point plan, the Oversight Board will be active in its oversight of RTC. The audit committee will be charged with independently reviewing and advising the Oversight Board and RTC on RTC's internal controls. This group must be comprised of individuals who both understand RTC's difficult and complex mission and will review RTC's adjustments with a cold eye for detail. We are determined to have RTC meet its mandate in a manner that minimizes the costs to taxpayers and restores the public's confidence in government.

QUESTIONS OF SENATOR PATTY MURRAY

Q.1. Recently, the Associated Press reported that of the nearly $184 million in penalties levied in S&L plea bargains, less than one-half of one percent has been paid. Can you give me any insight into why this is the case? I suppose it is logical that the people who were convicted cannot pay. Why shouldn't jail sentences be handed down? There is a perception across this country that some people are getting away with robbery.

A.2. Secretary Bentsen has asked the Justice Department to take a fresh look at its efforts to prosecute the savings and loan crooks and to obtain restitution. This is a serious matter and we owe it

to the taxpayers to take a hard, new look at our effort to catch the crooks and make them pay. As you know, it is unrealistic to expect to obtain much of the restitution ordered because the ability of the individuals to pay often is not great. In addition, much of the money stolen from failed thrift institutions has been lost forever in speculative investments in declining real estate and junk bond markets during the 1980's. With respect to your question regarding jail sentences, it should be noted that as of November 30, 1992, 1,358 individuals have been charged with major prosecutions[1] by the Department of Justice, 1,062 defendants have been convicted, and 685 defendants have been sentenced to prison. In addition, of the 390 CEO's, Board Chairmen, presidents, Directors, and other officers that have been charged in "major" prosecutions by the Department of Justice, 324 have been convicted.

Q.2. What structural reforms are you proposing to ensure that future abuse of America's financial institutions is avoided?

A.2. There have been three major financial institutions reform acts passed in recent years—the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the RTC Refinancing, Restructuring, and Improvement Act of 1991, and the Federal Deposit Insurance Improvement Act of 1991. These three acts have mandated revolutionary reforms that have not only strengthened depository institutions but have significantly improved the regulatory structure of these institutions.

Both banks and savings associations have experienced record earnings over the past year and have strengthened their capital levels and restructured their balance sheets. As President Clinton noted in his recent address on the credit crunch, the federal regulatory agencies are reorienting their examination focus away from unproductive technicalities and more toward examining for true risk as well as equal credit opportunities.

QUESTIONS OF SENATOR CHRISTOPHER BOND

Q.1. I have heard several complaints from small investors and small business persons who want to become involved in the asset disposition process of the RTC, but who feel that the RTC's policies of bulk sales and large auctions prevent them from taking part. What actions is the RTC taking to assist the small investors to purchase assets from the RTC and to allow more local small business persons to get involved in the asset disposition process?

A.1. Secretary Bentsen has asked the RTC to perform a top-to-bottom review of all of its asset sales policies and strategies. Opportunities for small investors will be included in the asset sales review. To maximize the return to taxpayers, RTC must consider all sales methods. In addition, RTC will review its use of the private sector in the management and sale of its assets. This part of the review will analyze RTC's SAMDA program as well as the use of small business persons in sales and property management.

Q.2. Are properties ever listed with local brokers? If so, are they limited to certain types of assets?

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[1] "Major" is defined as (a) fraud or loss of $100,000 or more, or (b) the defendant was an officer, director, or shareholder/owner, or (c) the schemes involved multiple borrowers in the same institutions.

A.2. It is RTC policy to promote the use of local brokers in conjunction with local property manager, SAMDA contractors, and RTC offices with geographic jurisdiction of the real estate asset to manage real estate assets irrespective of the location of the owning institution, to the maximum extent feasible. Brokers usually are local to the asset unless the nature of the asset indicates otherwise. It is clearly most efficient to have real estate assets generally marketed by local brokers and managed by local property managers working for local, or nearby, SAMDA contractors and supervised by RTC offices with jurisdiction over the physical location of the real estate asset.

Local brokers are utilized for real estate owned assets only.

Q.3. Investors have also complained to me that information on properties for sale is hard to obtain. Does the RTC in its marketing of an asset regularly provide information to the investing public on that asset? If so, what type of information is available and how may an investor obtain it?

A.3. Regarding sales of real estate, standards for adequate marketing must be met. This includes the implementation of a marketing plan which assures that professional marketing materials were prepared and distributed to the appropriate target market, which in turn would be reached through the most effective advertising medium. In regard to auctions, for example, extensive marketing efforts are required with large-scale regional, national and possibly international exposure. Minimum marketing efforts include extensive advertising in newspapers and appropriate trade journals and publication and distribution of brochures, press releases and solicitations to prospects in RTC's data base of potential buyers.

Attached are examples of weekly advertisements in *The Wall Street Journal.* (Attachment 1 and 2.)

In addition, the RTC also has several toll-free 800 numbers where individuals can obtain asset sales calendars and listings of individual assets using their own specific parameters. It also has an Information Center which is manned by individuals who can respond to a variety of questions. The RTC Field Offices also have Clientele Responsiveness Units and Public Reading Rooms to assist the public.

Q.4. Do you feel that the bulk sales method of selling assets brings higher purchase prices than if those assets were sold on an individual basis? Why?

A.4. In determining the best asset sales method for maximizing value, a number of factors must be taken into account, including local markets, asset carrying costs, and asset quality.

RTC must consider all sales methods and balance the use of any one technique with its cost effectiveness relative to the assets being sold through other methods. To accomplish this, RTC must know what its assets are and where they are located. If it knows exactly what it is selling, it can sell them better and base a sales strategy on that knowledge. We don't know if bulk sales provided a greater net return on the assets sold compared to selling them individually. That is one of the reasons Secretary Bentsen asked for a complete review of RTC's sales policies to assure that efforts going forward make sense and are justified.

Attachment 1

RTC

RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

LOAN OFFERINGS

March 4, 1993

The following represents whole loans offered by the RTC nationwide for immediate sale on a competitive bid basis. All inquiries and requests for additional information should be made directly to the individuals listed by the date specified.

SEALED BIDS

Asset Description	$ (in 000's) / # of Loans	WAM / WAC	# of Pools	Geographic Distribution	Thrift / City & State	Contact / Phone Number	Bid Date
Commercial Loans							
[illegible]	[illegible] / 22	N/A / N/A	3	AL, DC, FL, IL, LA, MT, VA	[illegible]	[illegible] 310-477-[illegible]	04/13/93
Perf. & Non-Perf. [illegible]	[illegible] / [illegible]	N/A / N/A	4	[illegible]	[illegible]	[illegible] 310-477-[illegible]	04/13/93
Non-Performing [illegible]	[illegible] / 1	N/A / N/A	1	[illegible]	[illegible]	[illegible] 303-[illegible]	04/08/93
Non-Performing [illegible]	[illegible] / [illegible]	N/A / N/A	25	FL, MA, NJ	[illegible]	[illegible] 212-[illegible]	03/31/93
Perf., Non-Perf. [illegible]	[illegible] / [illegible]	N/A / N/A	13	FL, ILL, NY, PA, SC	[illegible] Upper Darby, PA	[illegible] 212-[illegible]	03/15/93
Perf. Nursing Home & Congregate Care Facilities [illegible]	[illegible] / 31	[illegible] / [illegible]	4	[illegible]	[illegible]	[illegible] 212-440-7751	03/17/93
[illegible] & REO	[illegible] / [illegible]	N/A / N/A	4	[illegible]	[illegible]	[illegible]	04/08/93
[illegible]	[illegible] / 63	N/A / N/A	22	[illegible]	[illegible]	[illegible] 212-[illegible]	03/23/93
Perf. & Non-Perf. [illegible]	[illegible] / 112	[illegible] / 10%	4	[illegible] Texas	[illegible] Texas	[illegible] 214-[illegible]	03/30/93
Non-Performing & [illegible]	[illegible] / 37	N/A / N/A	4	Texas	[illegible] Texas	[illegible] 310-477-[illegible]	04/15/93
[illegible]	[illegible] / [illegible]	100 / [illegible]	4	[illegible]	[illegible]	[illegible] 310-477-[illegible]	03/17/93
Consumer Loans							
Perf. & Non-Perf. [illegible]	[illegible] / 2,800	N/A / N/A	13	[illegible]	[illegible] CT, NJ & PA	[illegible] 212-[illegible]	03/18/93
Performing & Non-Performing [illegible]	$12,000 / 118	130 / [illegible]	2	[illegible]	[illegible] #2147 [illegible], PA	[illegible] 214-740-[illegible]	03/12/93
[illegible]	[illegible] / 2,300	N/A / N/A	18	[illegible]	[illegible] #7913 [illegible]	[illegible]	03/24/93
1-4 Residential							
Performing [illegible]	[illegible] / [illegible]	N/A / N/A	4	California	[illegible] F.A. San Diego, CA	[illegible] 619-[illegible]	04/14/93

AUCTIONS

Asset Description	$ (in 000's) / # of Loans	WAM / WAC	# of Pools	Geographic Distribution	Thrift / City & State	Contact / Phone Number	[illegible] Date
1-4 Residential							
Non-Perf. [illegible]	[illegible] / [illegible]	N/A / N/A	[illegible]	[illegible]	[illegible]	[illegible]	03/23/93 / 03/24/93
Judgments, Charge-Offs & Deficiencies							
[illegible] Charge-Offs & Judgments	[illegible] / 10,[illegible]	N/A / N/A	50	[illegible]	[illegible] Phoenix, AZ	[illegible] 800-748-4457	04/14/93

Financing May Be Available. Call for Details

All events are subject to change and/or cancellation at any time.

TBD - To Be Determined

Use This Stat Directly On Page !!!!

2 Columns x 133 Agates (4.656" x 9.5")

To Run Thursday, March 4, 1993 in the Wall Street Journal

Attachment 2

RTC

RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

REAL ESTATE OFFERINGS

March 5, 1993

The following represents real estate offered by the RTC nationwide for immediate sale on a competitive bid basis. All inquiries and requests for additional information should be made directly to the individuals listed by the date specified.

SEALED BIDS

Asset Description	Aggregate Market Value $ (in 000's)	# of Assets	City Location	State Location	Contact Name	Phone Number	Bid Date
Commercial							
Resort/Golf Course	TBD	1	Lake Worth	AL	FGB Realty Advisors, Inc	800-361-0250	03/30/93
Land/Retail Shop. Ctr./Office Bldg.	TBD	3	Various	AZ, CA	FGB Realty Advisors, Inc	602-470-7770	04/23/93
Retail Shopping Center	$2,214	1	Coral Springs	FL	CB Commercial	407-394-2100	04/22/93
Retail Shopping Center	$3,800	1	Margate	FL	CB Commercial	800-432-4125	04/21/93
Office Building	$1,800	1	Pompano Beach	FL	CB Commercial	800-432-4125	04/21/93
Office Building	$212	1	Cape Girardeau	MO	[illegible]/CFS	813-361-4800	03/19/93
Various Buildings & Undev. Land	$14,000	35	Various	TX	J. E. Robert Company, Inc	800-[illegible]	03/19/93
Office Complex	$900	1	Salt Lake City	UT	Coopers & Lybrand	303-573-2800	04/08/93
Office Building/Multifamily	$81,000	10	Various	Various	First Boston Corporation	212-909-4282	03/23/93
Residential							
SF Townhomes & Condo/Res. Land	$1,844	63	Various	Various	Larry Latham Auctioneer	800-[illegible]	04/02/93
Affordable Housing							
Condominium	$1,800	40	Houston	TX	RTC-Dallas	713-381-4611	03/26/93
Condominium	$16,346	6	Various	TX	RTC-Dallas	214-717-4372	03/12/93
Multifamily	$24,478	12	Various	Various	RTC-Dallas	214-443-2213	04/08/93
Land							
Developed Residential	$17,800	1	Pacific Palisades	CA	FGB Realty Advisors, Inc	214-444-7007	04/14/93
Developed Commercial/Residential	$2,285,000	TBD	Various	Various	LaSalle/Partners	800-342-5787	04/08/93

AUCTION EVENTS

Asset Description	Aggregate Market Value $ (in 000's)	# of Assets	City Location	State Location	Contact Name	Phone Number	Event Date
Commercial							
Units & Dev. Land/Res. Or Office/Ret.	$7,730	70	College Park	MD	Fisher Auction Co.	800-422-4782	03/16/93
Units & Dev. Land/Res. Or Office/Ret.	$18,080	70	Arlington	VA	Fisher Auction Co.	800-422-4782	03/15/93
Units & Dev. Land/Res. Or Office/Ret.	$2,250	40	Sterling	VA	Fisher Auction Co.	800-422-4782	03/16/93
Residential							
Single-Family/Townhouse/Condo	$7,500	40	Anaheim	CA	Dines Auctions & Co.	800-[illegible]-5708	03/21/93
Single-Family (1-4)/Condo/Land/Condo	$5,050	80	New Orleans	LA	LPC Real Estate Clearinghouse	800-[illegible]-0815	03/14/93
Affordable Housing							
Single-Family (1-4)/Condominium	$2,775	84	New Orleans	LA	LPC Real Estate Clearinghouse	800-[illegible]-0815	03/13/93
Land							
Single Family & Res. Land/SF & Condo	$2,371	68	Baton Rouge	LA	LPC Real Estate Clearinghouse	800-[illegible]-0815	03/11/93
Single & Dev. Res. Land/SF & Condo	$847	42	Shreveport	LA	LPC Real Estate Clearinghouse	800-[illegible]-0815	03/15/93

Financing May Be Available. Call for Details

All events are subject to change and/or cancellation at any time

TBD - To Be Determined

Q.5. What percent of your assets are sold on an individual basis? What percent are sold in bulk transactions or auctions?

A.5. During 1992, approximately 12 percent of all asset sales were sold on an individual basis. The majority of the RTC's remaining assets are categorized as "hard-to-sell." It is estimated that approximately 22 percent of the remaining inventory in terms of dollar volume will be sold on an individual basis. Real estate owned represents the asset type most suitable for individual sales. During 1992, approximately 80 percent of real estate owned was sold individually. We estimate that 70 percent of the remaining inventory of real estate owned will be sold in that manner.

During 1992, approximately 49.7 percent of all asset sales were through bulk (portfolio) transactions, and auctions (including portfolios sold at auction) accounted for 3.0 percent. It is estimated that approximately 16 percent of the remaining inventory will be sold through portfolio sales and 23 percent of the inventory through auctions. The RTC employs auctions to sell much of our single-family affordable housing units and other small real estate holdings. We have found that auctions are an excellent sales strategy to attract purchasers of *individual* small real estate assets, since the market for these assets are typically small local investors and, in the case of affordable housing, owner-occupant homebuyers. The RTC also has employed auctions to sell relatively simple large real estate holding and to increase the market's awareness of RTC as a credible seller.

Based on the positive experience in selling real estate, RTC expanded its use of auctions to dispose of hard-to-sell loan assets, particularly nonperforming loans under $250,000, construction loans, unsecured consumer loans, and chargeoffs.

Q.6. Are bulk transactions or auctions made up of only hard-to-sell assets that could not be sold individually? Please explain.

A.6. Currently bulk (portfolio) transactions and auctions are primarily composed of nonperforming loans and real estate. This will continue in the coming months as hard-to-sell assets represent 70 percent of all assets under RTC control as of January 31, 1993.

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